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BEFORE THE
ILLINOIS COMMERCE COMMISSION

ILLINOIS COMMERCE COMMISSION)	DOCKET NO.
On Its Own Motion)	11-0341
-vs-)	
AMEREN ILLINOIS COMPANY d/b/a)	
Ameren Illinois)	
)	
Reconciliation of revenues)	
collected under Rider EDR with the)	
actual costs associated with)	
energy efficiency and)	
demand-response plans.)	
)	
Reconciliation of revenues)	
collected under Rider GER with the)	
actual costs associated with)	
natural gas energy efficiency)	
plans.)	

Springfield, Illinois
Wednesday, March 13, 2013

Met, pursuant to notice, at 10:00 a.m.
BEFORE:
MR. LARRY JONES, Administrative Law Judge

L.A. COURT REPORTERS, INC.
By Carla J. Boehl, Reporter
CSR #084-002710

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(Appearing on behalf of the
15 Citizens Utility Board)

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I N D E X

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PROCEEDINGS

JUDGE JONES: On the record. Good morning. I call for hearing Docket Number 11-0341. This is titled in part Illinois Commerce Commission on its own motion versus Ameren Illinois Company d/b/a Ameren Illinois, reconciliation of revenues collected under Rider EDR with the actual costs associated with energy efficiency and demand response plans, reconciliation of revenues collected under Rider GER with the actual costs associated with the natural gas energy efficiency plan.

At this time we will take the appearances orally for the record. If you appeared previously at a prehearing or status hearing in this matter, you need not restate your business address and phone number or respell your name, unless any of those things have changed or you simply prefer to do that.

We will start with the appearance or appearances on behalf of Ameren Illinois Company.

MR. FITZHENRY: Yes. On behalf of the Respondent, Ameren Illinois Company, my name is

1 Edward Fitzhenry. My business address is 1901
2 Chouteau Avenue, Post Office Box 66149, Mail Code
3 1310, St. Louis, Missouri 63166-6149. My telephone
4 number is area code (314) 55 -- I'm sorry, yes,
5 (314) 554-3533.

6 JUDGE JONES: Thank you. Are there other
7 appearances for Ameren Illinois Company?

8 MR. DE MONTE: Yes, Your Honor, Mark DeMonte
9 and I have with me Matthew Singer. We are with the
10 law firm of Jones Day, 77 West Wacker, Chicago,
11 Illinois 60601.

12 JUDGE JONES: Thank you. Other appearances?

13 MS. LUCKEY: On behalf of the Staff of the
14 Illinois Commerce Commission, Nicole Luckey and Kelly
15 Armstrong, 160 North LaSalle Street, Suite C-800,
16 Chicago, Illinois 60601.

17 MS. LUSSON: On behalf of the People of the
18 State of Illinois, Karen Lusson, L-U-S-S-O-N, 100
19 West Randolph Street, 11th Floor, Chicago, Illinois
20 60601.

21 MR. MOORE: On behalf of the Natural Resources
22 Defense Council, Stephen Moore with the law firm

1 Rowland and Moore, L.L.P., 200 West Superior Street,
2 Suite 400, Chicago, Illinois 60654.

3 MS. JANG: On behalf of the Department of
4 Commerce and Economic Opportunity, Hellin Jang and
5 Jessica Osorio, 100 West Randolph Street, 13th Floor,
6 Chicago, Illinois 60601.

7 MS. MUNSCH: On behalf of the Citizens Utility
8 Board, Kristin Munsch, M-U-N-S-C-H, 309 West
9 Washington Street, Suite 800, Chicago, Illinois
10 60606.

11 JUDGE JONES: Thank you. Are there other
12 appearances to be entered this morning?

13 (No response.)

14 Let the record show there are not.

15 With respect to the cross examination
16 estimates that were circulated most recently,
17 yesterday, I believe, are there any changes in any of
18 those?

19 MR. DE MONTE: Your Honor, with respect to the
20 company, we anticipate finishing earlier than the 60
21 minutes that have been estimated in the cross
22 estimates yesterday with Ms. Hinman.

1 MS. LUCKEY: For Staff, I believe our estimate
2 is going to remain around the time that we have
3 estimated there. There is going to be a little bit
4 of flipping through documents. We just want to allow
5 time for that.

6 JUDGE JONES: Okay, thank you. Anybody else?

7 (No response.)

8 In terms of the order of witnesses,
9 was the plan that they go on in the order listed on
10 the sheet that was circulated or in some other
11 manner?

12 MR. DE MONTE: Your Honor, this is Mark
13 DeMonte. The parties have conferred and they would
14 suggest that the order of evidence go in with the
15 list of the -- with the Company going first. And the
16 witnesses who are not here, that would go in by
17 affidavit, that evidence go in first, and then we
18 would present Mr. Woolcutt. And there is an
19 additional cross exhibit that Staff and the Company
20 have come to an agreement on. At that point, the
21 Company would move for admission of that as well with
22 Staff. Then it is my understanding Staff will then

1 go ahead and present their case, with CUB following.

2 JUDGE JONES: All right. Thank you. Does
3 anyone else have any comments or clarifications on
4 that?

5 (No response.)

6 Were there any other preliminary
7 matters to be taken up before we proceed with the
8 parties and the witnesses?

9 MR. MOORE: Mr. Examiner, this is Steve Moore.
10 Unless I missed it, I don't know if you ruled on the
11 Petition to Intervene of the NRDC.

12 JUDGE JONES: It appears that was filed on
13 February 20, 2013. Let the record show that the
14 Petition for Leave to Intervene of the Natural
15 Resources Defense Council is hereby granted pursuant
16 to the terms of and also the conditions of Section
17 200.200 of the Commission's Rules of Practice.

18 MR. MOORE: Thank you.

19 JUDGE JONES: And that is granted by
20 Administrative Law Judge ruling at this time. There
21 will not be a written ruling issued with respect to
22 that unless someone sees a need to do so.

1 Are there any other preliminary
2 matters to take up before we proceed with the parties
3 and witnesses?

4 MR. DE MONTE: Your Honor, this is Mark DeMonte
5 on behalf of the Company. You had indicated in one
6 of the e-mail communications with respect to
7 witnesses who need not appear because there was no
8 cross examination for those witnesses, that they
9 could file affidavits, if necessary, by way of a late
10 filing and that you would be amenable to that as long
11 as there were no objections.

12 And for Ameren witness Mr. Leonard
13 Jones we will be asking at the time of admission of
14 Ameren's exhibits to keep the record open to file a
15 late-filed affidavit with respect to that testimony.
16 It is my understanding that no parties have an
17 objection to that.

18 JUDGE JONES: Yeah, assuming no objections,
19 leave can be given to make that filing as a late
20 filing and the exhibits could be admitted subject to
21 the making of that late filing. That would not
22 require the case to be held over in any manner other

1 than that. So if it is otherwise finished, then the
2 record could be marked heard and taken subject to
3 that.

4 MR. DE MONTE: Thank you, Judge.

5 JUDGE JONES: Did you have anything else,
6 Mr. DeMonte, with respect to those items?

7 MR. DE MONTE: Nothing further.

8 JUDGE JONES: Okay. Anything else from anyone?

9 (No response.)

10 I believe that brings us to the Ameren
11 witness or witnesses to be called and cross-examined
12 this morning. Are you ready to proceed with that?

13 MR. FITZHENRY: Yes, we are, Your Honor, and
14 the Company will call Mr. Kenneth Woolcutt to the
15 stand.

16 JUDGE JONES: Sir, please come up here. I
17 believe the video is trained on the witness box
18 there, so we will go with that. Please remain
19 standing for a moment and raise your right hand to be
20 sworn.

21 (Whereupon the witness was duly
22 sworn by Judge Jones.)

1 JUDGE JONES: All right. Thank you. Please be
2 seated.

3 MR. FITZHENRY: And before I proceed, Your
4 Honor, the Company had prepared an exhibit chart
5 hopefully for your benefit that identifies the
6 various testimonies and exhibits that are intended to
7 be submitted into evidence in this proceeding, both
8 by name of the witness, by party and by exhibit
9 number. This may be a guide for this morning and
10 this afternoon.

11 JUDGE JONES: Thank you. Are there copies for
12 other people?

13 MR. FITZHENRY: We will make them available.

14 May I proceed?

15 JUDGE JONES: You may.

16 KENNETH WOOLCUTT
17 called as a witness on behalf of Ameren Illinois,
18 having been first duly sworn, was examined and
19 testified as follows:

20 DIRECT EXAMINATION

21 BY MR. FITZHENRY:

22 Q. Would you please state your name and

1 business address for the record.

2 A. Kenneth Woolcutt, 300 Liberty Street,
3 Peoria, Illinois 61602.

4 Q. And on whose behalf are you testifying in
5 this docket?

6 A. Ameren Illinois.

7 Q. And, Mr. Woolcutt, have you caused to be
8 prepared certain testimonies and exhibits for
9 submission into the record in this docket?

10 A. Yes, I have.

11 Q. Mr. Woolcutt, I show you what's been marked
12 for identification as Ameren Exhibit 1.0 titled
13 Direct Testimony of Kenneth C. Woolcutt and first ask
14 you if this is the direct testimony that you intend
15 to offer into the record?

16 A. Yes, it is.

17 Q. And does this testimony consist of 14 pages
18 of questions and answers?

19 A. Yes, it does.

20 Q. And does it also include an Appendix A?

21 A. Yes.

22 Q. And the Appendix A identifies your

1 qualifications, correct?

2 A. Yes, it does.

3 Q. And does it also include Ameren Exhibit 1.1
4 and 1.2?

5 A. Yes.

6 Q. Do you have any changes or modifications to
7 either your testimony or the exhibits I just
8 mentioned, Mr. Woolcutt?

9 A. No, I do not.

10 Q. If I were to ask you the questions as set
11 forth in Ameren Exhibit 1.0 this morning, would you
12 give the same answers as set forth in your testimony?

13 A. Yes, I would.

14 Q. Now, sir, I turn your attention to what's
15 been marked for identification as Ameren Exhibit 4.0
16 and titled Rebuttal Testimony of Kenneth C. Woolcutt
17 and again ask if this is intended to be your rebuttal
18 testimony to be submitted in this docket?

19 A. Yes, it is.

20 Q. And did you also include in this testimony
21 an Ameren Exhibit 4.1?

22 A. Yes.

1 Q. And were these, this testimony and this
2 exhibit, prepared under your direction and
3 supervision?

4 A. Yes, it was.

5 Q. Mr. Woolcutt, if I were to ask you the same
6 questions that are set forth in the testimony again
7 this morning, would you give the same answers as set
8 forth in Ameren Exhibit 4.0?

9 A. Yes.

10 Q. And finally, sir, I turn your attention to
11 what's been, again, identified for the record as
12 Ameren Exhibit 6.0 titled Surrebuttal Testimony of
13 Kenneth C. Woolcutt, and again is this intended to be
14 the surrebuttal testimony that you are offering into
15 evidence in this docket?

16 A. Yes.

17 Q. Does this testimony consist of 15 pages of
18 questions and answers?

19 A. Yes.

20 Q. And does it also include Ameren Exhibit
21 6.1?

22 A. Yes, it does.

1 (Whereupon Ameren Exhibits 1.0,
2 1.1, 1.2, 4.0, 4.1, 6.0 and 6.1
3 were admitted into evidence.)

4 JUDGE JONES: And the witness is tendered for
5 cross?

6 MR. FITZHENRY: Yes, he is. And thank you,
7 Your Honor.

8 CROSS EXAMINATION

9 BY MS. LUCKEY:

10 Q. Good morning, Mr. Woolcutt. My name is
11 Nicole Luckey. Can you hear me okay?

12 A. Yes, I can.

13 Q. And I just want to remind you to also talk
14 as close to the microphone as you possibly can so we
15 can hear all your answers.

16 Mr. Woolcutt, I would like to start by
17 confirming a couple things about your role at Ameren
18 and the documents that you reviewed in preparation
19 for filing testimony in this proceeding. Is it
20 correct that you are the managing supervisor of
21 Illinois energy efficiency for Ameren Illinois
22 Company d/b/a Ameren Illinois?

1 A. That is correct.

2 Q. Is it also true that you oversee the
3 management of the residential and business energy
4 efficiency programs?

5 A. Yes, I do.

6 Q. In preparing your written testimony and in
7 preparation for testifying today, did you review the
8 testimony of other Company witnesses, Dominic
9 Perniciaro, Leonard Jones and Dr. John Chamberlin?

10 A. Yes.

11 Q. So you are familiar with the testimony of
12 those individuals?

13 A. I am familiar with it to a degree, not as
14 familiar with it as my own.

15 Q. Okay. And also in preparation for your
16 written testimony in this proceeding and testifying
17 today, did you also review the plans at issue in
18 Docket Numbers 07-0539 and 08-0104, including the
19 Final Orders?

20 A. Yes, I did.

21 Q. And last, do you have a copy of the
22 parties' joint cross exhibit in front of you?

1 A. I will.

2 Q. If you don't, I believe Staff has a copy
3 for you there.

4 A. I have a copy.

5 Q. I am going to be referring to that
6 throughout my line of questioning, so it would be
7 helpful for you to have a copy?

8 A. I have it now.

9 MR. FITZHENRY: Counsel, if we could have a
10 moment and be sure the Judge has a copy as well.

11 MS. LUCKEY: Thank you.

12 MR. FITZHENRY: If I could for the benefit of
13 the Judge, as Mr. DeMonte mentioned at the outset,
14 this is a Joint Cross Exhibit 1 which is a
15 compilation of data request responses that have been
16 agreed to by Ameren Illinois and the Staff for
17 submission into this docket. We just note
18 parenthetically that, again for the benefit of the
19 Judge and perhaps in your examination of him, that
20 the document has been paginated from 1 to 399. And
21 perhaps as we go forward, counsel will be kind enough
22 to identify by page so that the witness can easily

1 get to that page number, given the voluminous nature
2 of the document. Thank you.

3 MS. LUCKEY: I am happy to do that.

4 MR. FITZHENRY: And this might be an
5 appropriate time -- well, I will strike that.

6 MS. LUCKEY: If you are referring to the fact
7 that this is the appropriate time perhaps to try to
8 move that into evidence, I think that that's
9 accurate.

10 MR. FITZHENRY: Yes, that was where I was
11 going. Thank you.

12 MS. LUCKEY: Sure. Your Honor, at this time
13 Staff would move for admission into evidence the
14 parties' Joint Cross Exhibit 1.

15 JUDGE JONES: Thank you. Is anyone else
16 joining in that motion?

17 MR. FITZHENRY: No, it is a Staff and Ameren
18 Illinois exhibit. Again, we concur in the moving the
19 document into evidence.

20 JUDGE JONES: Thank you. Are there any
21 objections to the admission of Joint Cross Exhibit
22 Number 1?

1 (No response.)

2 Let the record show there are not.

3 Let the record further show that Joint
4 Cross Exhibit Number 1 is hereby admitted into the
5 evidentiary record.

6 (Whereupon Joint Cross Exhibit 1
7 was admitted into evidence.)

8 MS. LUCKEY: Thank you, Your Honor. Are we
9 ready to move on, Mr. Woolcutt?

10 THE WITNESS: Yes.

11 BY MS. LUCKEY:

12 Q. Great. I am going to be asking some
13 questions regarding what the parties called the TRC
14 test. Can we agree that for purposes of this
15 conversation that TRC test refers to the Total
16 Resource Cost test which measures the costs and
17 benefits of a measure program or portfolio by
18 comparing the ratio of benefits realized with the
19 costs to implement that measure program or portfolio?

20 A. Yes.

21 Q. I am also going to be discussing with you
22 something called the Small Business HVAC Program, but

1 for purposes of this discussion is it okay if I
2 referred to it as the SB HVAC Program?

3 A. Yes.

4 Q. Mr. Woolcutt, earlier you stated that you
5 had reviewed the testimony of other Company witnesses
6 in preparation for written testimony and questions
7 today, correct?

8 A. That is correct.

9 Q. Do you have in front of you Ameren Exhibit
10 5.0, the rebuttal testimony of Ameren witness Dr.
11 John Chamberlin? And if not, I will be happy to
12 provide you with a copy.

13 A. Is it in the Joint Cross Exhibit 1?

14 Q. It is not, but we can provide you with a
15 copy now. Jennifer, can you please give Mr. Woolcutt
16 a copy?

17 A. I have that copy in front of me now.

18 Q. I would like to direct you to the bottom of
19 page 4, Footnote 1, which states, "In my testimony I
20 find cost-effective to mean that benefits exceed
21 costs resulting in a TRC benefit to cost ratio
22 greater than one." Do you see that?

1 A. I do.

2 Q. You agree with Dr. Chamberlin's definition
3 of cost effective in this context, right?

4 A. I do.

5 Q. Okay. Mr. Woolcutt, now I would like to
6 direct you to your rebuttal testimony. Going to go
7 to page 4, lines 67 through 74, and just let me know
8 when you are there.

9 A. And you are referring to the Joint Cross
10 Exhibit or --

11 Q. No, I am referring to your rebuttal
12 testimony that you filed in this proceeding, Ameren
13 Exhibit 4.0, and that was page 4, lines 67 through
14 74.

15 A. Okay. I have that in front of me.

16 Q. There you state that the SB HVAC Program
17 was one of the voluntary gas programs that passed the
18 TRC test submitted by AIU and reviewed and approved
19 by the Commission, and then you go on to say the SB
20 HVAC Program met certain criteria, including having
21 an acceptable TRC test result for planning purposes,
22 is that correct?

1 A. That is correct.

2 Q. And then you say it passed the TRC test.

3 And when you say that, you mean that it was cost

4 effective, right?

5 A. That is correct.

6 Q. Which we agreed that it had a TRC greater

7 than one?

8 A. That is correct.

9 Q. So those programs that had a TRC greater

10 than one were considered acceptable for planning

11 purposes, right?

12 A. Yes.

13 Q. Okay. We are going to look again at your

14 rebuttal testimony, and this time we are going to go

15 to page 7, lines 139 through 140.

16 MR. FITZHENRY: Could you repeat the line

17 numbers?

18 MS. LUCKEY: Sure. It was lines 139 through

19 140.

20 MR. FITZHENRY: Thank you.

21 Q. (Ms. Luckey) Okay. Here you agree that

22 the TRC should be used for planning purposes, is that

1 correct?

2 A. Yes, I do.

3 Q. Earlier we established that you reviewed
4 and are familiar with the natural gas energy
5 efficiency plan approved in 08-0104, is that right?

6 A. Yes.

7 Q. Great. And that is in the parties' joint
8 cross exhibit. Do you have that in front of you?

9 A. I do.

10 Q. I would like to direct you to page 66 of
11 the plan which is page 88 of the joint cross exhibit?

12 A. Okay. I am there.

13 Q. Great. And we are looking under Section
14 7.1.2, the first bullet point, Policy Planning and
15 Journal. So we are going to go to the last two
16 sentences of that bullet point, and I just want to
17 confirm it reads as follows: "Subsequent to
18 Commission approval of this plan, the Company will
19 direct development of detailed program design and a
20 re-analysis of portfolio costs and benefits based on
21 any new information as it becomes available or is a
22 final designing change from initial proposals. The

1 planning process will be ongoing and an integral
2 element of the Company's portfolio management," is
3 that right?

4 A. That is correct.

5 Q. Do you agree then that, because the
6 planning process is ongoing, that the TRC test should
7 be applied to Ameren's portfolio program on an
8 ongoing basis, right?

9 A. That necessarily wouldn't be my
10 understanding. As TRCs can be calculated at any
11 time, I would agree. However, they may not always
12 have the same value as the time progresses throughout
13 the portfolio.

14 Q. Okay. But we have confirmed that the
15 planning process is ongoing and that TRCs are useful
16 in the planning process, is that correct?

17 A. That is correct.

18 Q. Looking again at the natural gas energy
19 efficiency plan that was approved in 08-0104, we are
20 going to review a couple pages of the document, but I
21 promise I am going to follow up with a question, but
22 you have to bear with me for a minute. Can you

1 please turn to page 1 of that plan which is page 23
2 of the joint cross exhibit?

3 A. Yes.

4 Q. Under Section 1.1 do you see Summary of the
5 Portfolio, the first point in the summary?

6 A. Yes.

7 Q. And that reads as follows: "This is a
8 portfolio that is cost effective as a measure and
9 program level, excluding the residential low income
10 program and the portfolio level," correct?

11 A. Yes.

12 Q. Okay. Now, we are going to look at page 2,
13 Section 1.2, which is labeled the Planning Process,
14 and it details that the Company's plan reflects a
15 detailed analysis process that includes the economic
16 screening of close to 50 natural gas energy
17 efficiency measures, a review of the utility program
18 design best practices -- and here is the most
19 important part -- the design of programs
20 incorporating cost-effective measures and programs
21 and portfolio cost-effectiveness analysis, correct?

22 MR. FITZHENRY: I am going to object to the

1 form of the question. If you are just reading it
2 verbatim, that's one thing. But to interject what
3 you believe to be the most important part is an
4 improper question.

5 Q. I can just rephrase it. Mr. Woolcutt,
6 looking again at page 2, Section 1.2, the Planning
7 Process, the plan reads as follows: "The Company's
8 plan reflects a detailed analysis process that
9 included the economic screening of close to 50
10 natural gas energy efficiency measures, a review of
11 utility program design best practices, the design of
12 programs incorporating cost-effective measures, and
13 program and portfolio cost-effectiveness analysis,"
14 correct?

15 A. Yes.

16 Q. And looking at page 23 which is page 45 of
17 the cross exhibit, I believe, are you there?

18 A. Yes.

19 Q. Under the Ameren Illinois Utility
20 Portfolio, the first paragraph, the last sentence
21 reads as follows: "The Company requested that it be
22 given the flexibility to allocate funding among

1 programs consistent with the performance of programs
2 to insure that it is able to meet its energy saving
3 target within the budget proposed, using
4 cost-effective programs," correct?

5 A. Yes.

6 Q. Okay. We are going to jump now to page 63
7 of the plan which is page 85 of the joint cross
8 exhibit. This is the last one. And we are going to
9 go to the second paragraph under Section 6.2.2.

10 A. Okay.

11 MR. FITZHENRY: I am sorry. I didn't get the
12 reference. Could you repeat that, ma'am?

13 Q. Sure. We are going to go to page 63 of the
14 plan which is page 85 of the joint cross exhibit, the
15 second paragraph under Section 6.2.2.

16 Okay. Mr. Woolcutt, that describes
17 finalizing the program design and implementation
18 plans after Commission approval of the plan, is that
19 right?

20 A. Yes, it is.

21 Q. And the plan describes the final step, do
22 you see that in the middle of the paragraph?

1 A. Yes, I do.

2 Q. It reads, "The final step in the program
3 will be a recalculation of program element cost
4 effectiveness to insure that the program continues to
5 pass the TRC test, correct?

6 A. Yes.

7 Q. So you would agree that, based on the
8 initial plan approved by the Commission in 08-0104,
9 that Ameren ultimately intended to meet its energy
10 efficiency goals using programs that passed the TRC
11 test, correct?

12 MR. FITZHENRY: Well, Your Honor, I am going to
13 object because I think it misstates the plan. At
14 this portion of the plan it is speaking about final
15 program designs, and counsel has ignored the
16 reference to designs and is assuming that final
17 programs is something different. So I am going to
18 make the objection based on that.

19 JUDGE JONES: Response?

20 MS. LUCKEY: I believe I am reading accurately
21 and Mr. Woolcutt is -- I can try and rephrase the
22 question and see if counsel still objects.

1 Q. (Ms. Luckey) Mr. Woolcutt, would you
2 agree, based on the initial plan approved by the
3 Commission in 08-0104, that the design, the final
4 designs of the plan, were meant to meet energy
5 efficiency goals using programs that pass the TRC
6 test?

7 A. Yes.

8 Q. Okay. Mr. Woolcutt, now we are going to
9 look at your surrebuttal testimony, pages 12 through
10 13, and specifically line 243, starting there.

11 A. What was that line again, ma'am?

12 Q. Specifically we are looking at the quote
13 from Docket Number 08-0104 on line 4 -- or 243,
14 excuse me.

15 A. Yes, I have that.

16 Q. There you quote the Commission's language
17 from the Final Order in Docket 08-0104 which states,
18 "Once the programs have been rolled out, AIU says it
19 will retain flexibility to modify them as
20 circumstances warrant," correct?

21 A. Yes.

22 Q. Then on line 250 you state, "The Commission

1 did not approve utility flexibility only to increase
2 cost effectiveness of the Company's portfolio,"
3 correct?

4 A. Yes.

5 Q. Do you agree that utility flexibility could
6 be used to increase the cost effectiveness of the
7 Company's portfolio?

8 A. Yes.

9 Q. Do you agree that using flexibility to
10 increase the cost effectiveness of Ameren's portfolio
11 is consistent with the plan approved in 08-0104 that
12 we just discussed?

13 A. Yes.

14 Q. I would like to point you now to pages 7
15 through 8 of your rebuttal testimony.

16 A. I am there.

17 Q. There you state the Final Orders,
18 specifically Docket Number 07-0539, Docket Number
19 08-0104 and Docket Number 10-0568. Then on line 167
20 you state, "While I am not a lawyer, my understanding
21 of the Commission's finding is that Ameren Illinois
22 should develop a cost-effective portfolio," correct?

1 A. Yes.

2 Q. To the extent that you can confirm your
3 understanding, not as an attorney but as a lay
4 person, wouldn't you agree then that having a
5 cost-effective portfolio was an objective of the
6 Company?

7 A. Yes, it would be.

8 Q. And don't you agree that one way, among
9 many, for a utility to have a portfolio that is cost
10 effective is to implement cost-effective measures and
11 programs that make up that portfolio?

12 A. Yes.

13 Q. Okay. Now we are going to go back to the
14 joint cross exhibit, and I apologize for all the
15 flipping through documents. We are looking now at
16 page 349 of the joint cross exhibit which is the
17 final draft of the Program Year 2 Business
18 Implementation Plan Overview.

19 MR. FITZHENRY: I am sorry, I didn't catch the
20 page reference. I apologize.

21 MS. LUCKEY: It is page 349 of the joint cross
22 exhibit.

1 MR. FITZHENRY: Thank you.

2 A. I am there.

3 Q. (Ms. Luckey) And this document which reads
4 Business Program, Program Year 2 Implementation Plan
5 was prepared by the implementers, correct?

6 A. Correct.

7 Q. And when we refer to implementers in this
8 context, we are referring to the implementation
9 contractors for Ameren's portfolio, is that right?

10 A. Yes.

11 Q. Please refer to page 5 of that document
12 which is page 353 of the joint cross exhibit.

13 A. Okay.

14 Q. Do you see the column -- or, excuse me, do
15 you see Table 2 which is labeled Current Program Year
16 2 Data?

17 A. Yes.

18 Q. And do you see the column labeled TRC?

19 A. Yes.

20 Q. And can you read for me what the TRC is for
21 the Small Business HVAC Tune-up Program?

22 A. The original PY2 budget goal TRC or the

1 proposed PY2 budget goal TRC?

2 Q. If you would indulge me and read both, that
3 would be great.

4 A. The original PY2 budget goal had a TRC
5 calculated by the implementer of .34. And the
6 proposed PY 2 budget goal had a TRC of .82.

7 Q. Thank you. And we have already established
8 that a cost-effective program is one with a TRC
9 greater than one, correct?

10 A. Yes.

11 Q. So the Small Business HVAC Tune-up Program,
12 whether it was the original or the proposed, was not
13 very cost effective, correct?

14 A. I wouldn't categorize it as not cost
15 effective if the meaning of TRC cost effectiveness is
16 1.0.

17 Q. I am sorry, Mr. Woolcutt, I don't think I
18 understood your answer. Do you want me to ask it
19 again and then answer again?

20 A. Well, I think you characterize it as very.
21 I am just stating that it wasn't 1.0.

22 Q. Okay. So the Small Business HVAC Tune-up

1 Program was not cost effective according to the TRC
2 test?

3 A. Correct.

4 Q. And can you read for me what the TRC is for
5 the Small Business Food Service Program?

6 A. The original was 6.59 and the proposed was
7 3.46.

8 Q. So the Small Business Food Service Program
9 in comparison to the Small Business HVAC Program was
10 very cost effective, correct?

11 A. It was cost effective, yes.

12 Q. Or more cost effective than the SB HVAC
13 program?

14 A. Yes.

15 Q. Okay. Mr. Woolcutt, now I would like to
16 point you back to your surrebuttal testimony, pages 7
17 and 8.

18 A. Okay.

19 Q. Okay. And here you discuss some of the
20 implementers' suggested modifications to the SB HVAC
21 program as well as the Company's reactions to those
22 suggestions, is that a fair characterization?

1 A. Let me make sure that I am on the right
2 part of my testimony. This is the rebuttal, page 8.

3 Q. The surrebuttal testimony.

4 A. Surrebuttal, I am sorry. Okay.

5 Q. Okay. And we are on page 7 through 8 and I
6 will repeat my question. Here you discuss some of
7 the implementers' suggested modifications to the SB
8 HVAC program as well as the Company's reactions to
9 those suggestions, is that a fair characterization?

10 A. Yes.

11 Q. And you conclude that question and answer
12 on page 8 by stating on line 162 through 163 that,
13 "The Company's decision to follow the implementers'
14 modifications demonstrates prudence," is that
15 correct?

16 A. Yes.

17 Q. Okay. Now I am going to make you turn back
18 to the Program Year 2 Business Implementation Plan
19 Overview. Can you turn to page 3 which is page 351
20 of the joint cross exhibit?

21 A. Yes, I am there.

22 Q. Under Executive Summary, the implementers

1 list several recommended strategies to be employed in
2 Plan Year 2 in order to meet the Company's primary
3 goal, correct?

4 A. Yes.

5 Q. And the first strategy listed is maximize
6 delivery of and participation in the most
7 cost-effective programs in the portfolio, correct?

8 A. Yes.

9 Q. You would agree then that the Company's
10 decision to continue to invest in the SB HVAC program
11 which we have established is not cost effective is
12 inconsistent with this guidance?

13 MR. FITZHENRY: Well, I object to the form of
14 the question, Your Honor. As it clearly reads here
15 in this part of the plan, there were several
16 strategies identified, one of which was to promote
17 the most cost-effective programs. So for counsel to
18 single out this one as being the only one that was
19 being considered at the time in going forward with
20 this particular program is improper form, and I
21 object to the question. It is one of the several
22 strategies but not the only one, which I think is

1 what counsel is suggesting to be the case.

2 MS. LUCKEY: In Mr. Woolcutt's testimony he
3 suggested that following one of the implementers'
4 recommended strategies, or two even, was prudent. So
5 I am asking about this one.

6 MR. FITZHENRY: Well, but that wasn't your
7 question as I understood it.

8 JUDGE JONES: Please direct your arguments to
9 me.

10 Could we have the question read back,
11 Ms. Reporter?

12 (Whereupon the requested portion
13 of the record was read back by
14 the Reporter.)

15 JUDGE JONES: As near as I can tell, the
16 objection goes largely to the form of the question
17 and the fact it contains an assumption or assertion
18 as to what has been established. Given that, we will
19 sustain the objection, but you certainly may rephrase
20 the question and lay a further foundation or ask it
21 in any way you think is appropriate and we will go
22 there.

1 MS. LUCKEY: And I am sorry, Your Honor, I am
2 not clear on what part of the question we disagree
3 with, is objectionable. I just want to make sure I
4 leave that out when I refer to the --

5 JUDGE JONES: The part about what we have
6 established.

7 MS. LUCKEY: Okay.

8 Q. Would you agree, Mr. Woolcutt, that the
9 Company's decision to continue to invest in the SB
10 HVAC Program could be considered inconsistent with
11 this one strategy provided -- the strategy which was
12 provided as guidance to the Company?

13 A. Which strategy?

14 Q. The strategy that states, "Several
15 strategies will continue to be employed in Plan Year
16 2 to insure we are meeting our primary goals to
17 maximize delivery of and participation in the most
18 cost-effective programs in the portfolio."

19 A. That particular strategy of the six, five,
20 that are noted there, that particular program was not
21 particularly cost effective at that time.

22 Q. So was the Company's decision to continue

1 it inconsistent with this guidance?

2 A. No, it was not.

3 Q. So although earlier you did tell me that --
4 okay, earlier you did tell me that the Small Business
5 HVAC program was not cost effective, is that correct?

6 A. Yes, at that time it was not.

7 Q. So is your position that the Company's
8 decision to continue it is not inconsistent with the
9 implementers' suggested strategy to maximize delivery
10 of and participation in the most cost-effective
11 programs in the portfolio?

12 A. That is correct, and I would elaborate on
13 that, to the extent that we anticipated it to be cost
14 effective in the three-year plan.

15 Q. Okay. Let's move on. We are going to
16 refer now to your surrebuttal testimony, the middle
17 of page 14, around line 280.

18 A. Okay.

19 Q. There you discuss weighted gas TRCs and the
20 tune-up activities for the Small Business HVAC
21 program in Docket Number 08-0104, is that correct?

22 A. Let me make sure I am on the right section

1 of my testimony. That was my testimony, original
2 testimony?

3 Q. Your surrebuttal testimony.

4 A. Surrebuttal, I am sorry.

5 Q. That's okay. Page 14.

6 A. Right, line 280.

7 Q. I will ask it again.

8 A. Please.

9 Q. There you discuss weighted gas TRC values
10 and the tune-up activities for the SB HVAC Program in
11 Docket Number 08-0104, correct?

12 A. Yes.

13 Q. And on lines 288 through 291 you state,
14 "Despite reviewing this for the plan filing in Docket
15 Number 08-0104, Staff only took issue with the
16 griddles and spray valve measures proposed by the
17 Company," correct?

18 A. Yes.

19 Q. And I believe this is the last time I am
20 going to make you flip through a document. We want
21 to refer now to the gas plan, page B2 of Appendix B
22 at page 106 of the joint cross exhibit.

1 A. I believe I am there. Okay.

2 Q. And that was the weighted gas TRC results
3 for the measure screen for cost effectiveness, is
4 that right?

5 A. Yes, it is.

6 Q. And do you see where it says ICS ID 613?

7 MR. FITZHENRY: Is there a line reference,
8 Ms. Luckey, to that?

9 MS. LUCKEY: Sure. As a line reference,
10 meaning in the exhibit I am referring to?

11 MR. FITZHENRY: If I am looking at this
12 correctly, you are looking at --

13 MS. LUCKEY: Page 106 of the joint cross
14 exhibits and we are looking at ICS. It is the first
15 column ID, 613.

16 MR. FITZHENRY: 613, thank you. 613.

17 Q. (Ms. Luckey) And that's for high
18 efficiency gas griddles, right?

19 A. Yes.

20 Q. And do you see it says weighted gas TRCs,
21 that's the last column, the weighted gas TRC for that
22 ICS ID is .84, correct?

1 A. That's correct.

2 Q. Do you agree that the weighted gas TRC of
3 .84 for high efficiency gas griddles indicated that
4 the measure was not projected to be cost effective,
5 right?

6 A. That's correct.

7 Q. Based on a review of testimony and the
8 Final Order in the 08-0104 proceeding, is it your
9 understanding, to the extent that you can answer,
10 that Staff expressed concern with the high efficiency
11 gas griddles measure proposed by the Company because
12 the measure was not projected to be cost effective?

13 A. Yes, they did.

14 Q. I would like to refer you now to page 5 of
15 the gas plan. It is page 27 of the joint cross
16 exhibit.

17 A. Okay.

18 Q. Where it says Small Business Tune-up at the
19 bottom?

20 A. Yes.

21 Q. And that says, "A variety of HVAC tune-up
22 and control measures are cost effective based on gas

1 savings alone." Do you agree that that statement
2 implies that the tune-up measures included in the
3 plan were projected to be cost effective?

4 A. Yes.

5 MS. LUCKEY: I have no further questions for
6 Mr. Woolcutt.

7 JUDGE JONES: Thank you, Ms. Luckey. One
8 moment.

9 (Pause.)

10 Does Ameren Illinois have redirect of the
11 witness?

12 MR. FITZHENRY: Yes, I do, Your Honor, just if
13 I could have one moment to find where I need to be,
14 and I will be brief.

15 REDIRECT EXAMINATION

16 BY MR. FITZHENRY:

17 Q. If I could have the witness turn to page
18 353 of Joint Cross Exhibit -- 351, I am sorry.

19 A. Yes.

20 Q. You were asked some questions by Ms. Luckey
21 pertaining to this particular page, were you not?

22 A. Yes, I was.

1 Q. Now, in one of your answers to Ms. Luckey's
2 questions you indicated that you did not -- or you
3 did expect that the TRC value associated with the SB
4 HVAC Program to exceed 1.0. Do you remember your
5 answer to that question?

6 A. I believe I said that we did anticipate it
7 to.

8 Q. What were the reasons why the Company
9 anticipated that it could exceed a TRC value of 1.0,
10 talking about the SB HVAC Program?

11 A. This program was implemented in our gas
12 filing, and this is a voluntary filing on behalf of
13 Ameren Illinois. And we were trying to work through
14 our existing contractual relationships with
15 contractors and other implementers with the electric
16 plan. So the gas and the electric plans were
17 considered by us to be joint filings and, therefore,
18 would have beneficial results if contractors could
19 implement and propose incentives to both gas and
20 electric customers. And for the majority of our
21 customer base, they do have electric and gas service
22 from Ameren Illinois.

1 So in proposing a small gas -- Small
2 Business HVAC tune-up program, we anticipated that
3 being able to offer a tune-up to a customer, a gas
4 customer, would also have beneficial results to both
5 our gas and electric programs in that, if a gas
6 contractor could tune up a customer's furnace or
7 boiler, that they would be able to advise the
8 customer of other incentives. Perhaps if they needed
9 a new boiler or a furnace, they could certainly take
10 advantage of those. So it was a marketing activity,
11 I would characterize it as.

12 Q. Were any of the other strategies that are
13 identified in these bullet points on this particular
14 page considered in supporting the SB HVAC Program?

15 A. Definitely.

16 Q. And could you identify which ones were
17 being considered?

18 A. Well, there is a couple at least, but
19 certainly the last bullet point "Gaining recognition
20 through regional and national awards for successful
21 programs and projects," we certainly had had that
22 achieved. We also wanted -- I want to direct your

1 attention to the third bullet point, "Foster market
2 transformation through programs that achieve
3 persistent savings, modify consumer behavior, and
4 advance new technologies." That was certainly the
5 case in most of our programs.

6 And insure -- the second bullet point,
7 "insure customer and program ally satisfaction
8 through responsive support, technical excellence, and
9 effective communications."

10 Q. And if I could direct your attention -- or
11 maybe you can help me, there is, I think at least
12 twice, references in your testimonies where you talk
13 about market penetration and enhancing the Company's
14 relationship with trade allies. Do you generally
15 recall that being in your testimony?

16 A. Yes, I do.

17 Q. And do you have an opinion as to whether or
18 not the strategies that are shown here on this page
19 are consistent with those goals or objectives that
20 have been discussed in your testimony as I just
21 mentioned?

22 A. Yes. We were in fact enhancing that

1 relationship with our trade allies and certainly have
2 developed that over a period of years. It is not
3 something that you can start and create overnight.
4 It does have to be fostered. And incentives, such as
5 a tune-up incentive sensitive to those contractors,
6 is certainly a big part of that.

7 MR. FITZHENRY: Thank you, Your Honor, that's
8 all the questions I have for the witness.

9 JUDGE JONES: Thank you. Ms. Luckey, any
10 recross?

11 MS. LUCKEY: I have just one thing I want to
12 confirm on recross, if I could.

13 RECROSS EXAMINATION

14 BY MS. LUCKEY:

15 Q. Mr. Woolcutt, you stated just now that the
16 Company expected the TRC of the Small Business HVAC
17 Program to exceed one in Plan Year 2, is that
18 correct?

19 A. No, I did not.

20 Q. Can you tell me what you meant when you
21 said that the company expected the Small Business
22 HVAC Program TRC to exceed 1.0?

1 A. Over the course of the triennial program we
2 would anticipate it to have reached one. Or actually
3 if it did not reach one, it would certainly be --
4 have benefits to those small contractor groups that
5 were working on those customers' gas furnaces and
6 boilers. So, however, it would -- we have
7 anticipated it to achieve cost effectiveness, given
8 the market conditions that we anticipated at the
9 time.

10 Q. But not in Plan Year 2?

11 A. In Plan Year 2 we were anticipating it
12 would.

13 Q. I thought you just told me that you were
14 anticipating it would over the triennial period, over
15 the three years?

16 A. Right.

17 Q. Meaning in Plan Year 3.

18 A. Right. So the implementers' plan at that
19 point when they took a slice of time and calculated
20 the TRC was at that level, but we anticipated at the
21 end of the year to achieve a cost effectiveness.

22 MS. LUCKEY: Okay. Thank you. I have nothing

1 further.

2 MR. FITZHENRY: I have nothing further, Your
3 Honor.

4 JUDGE JONES: All right. Thank you, sir.

5 What's the preference of the parties
6 at this point? Do you want to proceed with the
7 witnesses who have cross or did you want to offer the
8 rest of the Ameren exhibits? What's your thought?

9 MR. DE MONTE: Your Honor, the Company is
10 prepared to put forth the remaining evidence that the
11 Company has at this time.

12 JUDGE JONES: All right. Any problems with
13 that from anybody?

14 MS. LUCKEY: No objection from Staff.

15 JUDGE JONES: All right. That's fine. You can
16 go ahead and offer those items into the record.

17 MR. DE MONTE: Thank you, Your Honor.

18 Your Honor, at this time Ameren
19 Illinois would offer in what has been previously
20 marked as Ameren Exhibit 2.0 which is the direct
21 testimony of Dominic Perniciaro which was filed on
22 e-Docket on November 30, 2011, and consists of five

1 pages of questions and answers and an attachment --
2 excuse me, one page of the appendix.

3 I would also offer in connection with
4 that Ameren Exhibit 2.1 which is an exhibit that was
5 filed along with Ameren Exhibit 2.0. And the Company
6 would also offer Ameren Exhibit 2.2 which was filed
7 again on November 30, 2011, along with the direct
8 testimony of Mr. Perniciaro. The Company would also
9 offer into evidence Ameren Exhibit 2.3 which is the
10 affidavit of Mr. Perniciaro which reflects that his
11 direct testimony, the contents of his testimony, and
12 along with the exhibits which is stated, that were
13 all prepared in written form by him or at his
14 direction.

15 The Company would also offer at this
16 time what's been previously marked as Ameren Exhibit
17 3.0 which is the direct testimony of Mr. Leonard
18 Jones that was filed on e-Docket on November 30,
19 2011. It consists of eight pages of questions and
20 answers, and it also consists of two pages of an
21 appendix reflecting Mr. Jones' statement of
22 qualifications.

1 The Company would also offer into
2 evidence Ameren Exhibit 5.0 which is the rebuttal
3 testimony of Dr. John Chamberlin that was filed on
4 e-Docket on May 31, 2012, and it consists of 18 pages
5 of questions and answers. It was filed along with
6 Ameren Exhibit 5.1 which is a one-page exhibit
7 reflecting the resume' of Dr. Chamberlin. And
8 finally the Company would offer into evidence the
9 affidavit of Dr. John Chamberlin which has been
10 previously marked as Ameren Exhibit 5.2, and this was
11 filed on e-Docket on March 12, 2013.

12 And just so the record is clear, the
13 affidavit of Mr. Perniciaro was also filed on March
14 12, 2013. And that consists of Dr. Chamberlin's 's
15 affidavit which reflects the contents of his
16 testimony as well as the statement that the testimony
17 is prepared by him, written form by him or under his
18 direction. And at this time the Company would tender
19 those exhibits into evidence.

20 JUDGE JONES: Thank you. Are there any
21 clarifications or objections with respect to those
22 Ameren Illinois exhibits that are being offered?

1 (No response.)

2 Let the record show there are not.

3 Those exhibits are hereby admitted into evidentiary
4 record. They are admitted as they were filed on
5 e-Docket on the dates just identified by Mr. DeMonte.
6 I will not read them into the record at this time,
7 other than to indicate that they are admitted as just
8 identified and filed on the dates noted.

9 (Whereupon Ameren Exhibits 2.0,
10 2.1, 2.2, 2.3, 3.0, 5.0, 5.1 and
11 5.2 were admitted into
12 evidence.)

13 MR. DE MONTE: Your Honor, for clarification,
14 just to confirm what was raised as a preliminary
15 matter, the Company anticipates filing the affidavit
16 of Mr. Leonard Jones after today. Your Honor, we
17 expect that that will be filed as soon as possible.

18 JUDGE JONES: The direct testimony of
19 Mr. Leonard Jones, Ameren Exhibit 3.0, is admitted
20 into the evidentiary record subject to the late
21 filing of an affidavit from him. Leave of 14 days is
22 given to make that filing.

1 MR. DE MONTE: Thank you, Your Honor.

2 JUDGE JONES: What exhibit number will you be
3 using for that exhibit, for that affidavit exhibit?

4 MR. DE MONTE: Ameren Exhibit 3.1, Your Honor.

5 JUDGE JONES: Thank you. Any questions about
6 any of that?

7 (No response.)

8 All right, there are not. Was that
9 all the exhibits then that you were offering?

10 MR. DE MONTE: Yes, Your Honor.

11 JUDGE JONES: Thank you. All right. The next
12 witness who will be called and cross-examined is who?

13 MR. DE MONTE: I believe it is the Staff
14 witness.

15 MS. LUCKEY: It is Ms. Hinman. Staff now calls
16 Jennifer Hinman to the stand.

17 (Whereupon the witness was duly
18 sworn by Judge Jones.)

19 JUDGE JONES: Thank you. Please be seated.

20

21

22

JENNIFER HINMAN

1 called as a witness on behalf of the Illinois
2 Commerce Commission, having been first duly sworn,
3 was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MS. LUCKEY:

6 Q. Good morning, Jennifer.

7 A. Good morning.

8 Q. Can you please state your full name for the
9 record and spell your last name?

10 A. Jennifer Hinman, H-I-N-M-A-N.

11 Q. And who is your employer and what is your
12 business address?

13 A. The Illinois Commerce Commission, the
14 business address is 527 East Capitol Avenue,
15 Springfield, Illinois 62701.

16 Q. What is your position at the Illinois
17 Commerce Commission?

18 A. I am an economic analyst.

19 Q. Ms. Hinman, did you prepare written
20 exhibits for submittal in this proceeding?

21 A. Yes.

22 Q. Do you have before you a document which has

1 been marked for identification as ICC Staff Exhibit
2 2.0R which consists of a cover page, a table of
3 contents, 19 pages of narrative testimony, and ICC
4 Staff Exhibit 2.1 and is entitled the Revised Direct
5 Testimony of Jennifer L. Hinman?

6 A. Yes.

7 Q. Did you prepare that document for
8 presentation in this matter?

9 A. Yes, I did.

10 Q. Do you have before you a document which has
11 been marked for identification as ICC Staff Exhibit
12 4.0R which consists of a cover page, a table of
13 contents, 24 pages of narrative testimony, and Staff
14 Exhibits 4.1 and 4.2, and is titled the Revised
15 Rebuttal Testimony of Jennifer L. Hinman?

16 A. Yes.

17 Q. Did you prepare that document for
18 presentation in this matter?

19 A. Yes, I did.

20 Q. Do you have any corrections to make to ICC
21 Staff Exhibits 2.0R or 4.0R?

22 A. No, I don't.

1 filed.

2 THE WITNESS: And I believe it was just
3 attached, so just one document.

4 MS. LUCKEY: So it should be included. It
5 might have been combined into one document when it
6 was filed.

7 JUDGE JONES: Oh, you are saying 2.1 was
8 attached to 2.0R?

9 MS. LUCKEY: That's right.

10 JUDGE JONES: When the so-called file number
11 showed up on e-Docket, it just shows 2.0R. But you
12 are saying that actually --

13 MS. LUCKEY: Right. I am looking at the
14 document on e-Docket now. And if you go to the last
15 two pages of the document, it is labeled up in the
16 upper right-hand corner.

17 JUDGE JONES: How is it labeled?

18 MS. LUCKEY: ICC Staff Exhibit 2.1.

19 JUDGE JONES: Okay. Thank you. Are there any
20 objections or clarifications regarding the exhibits
21 sponsored by Ms. Hinman?

22 MR. DE MONTE: Your Honor, I just want to

1 confirm, counselor is referring to 4.0R and
2 Attachments 1 and 2 of 4.0R as well? I just wanted
3 to confirm. Those were all filed on March 12, but at
4 least pursuant to my notes, and I might have missed
5 it, I thought it was just a reference to 4.0 with
6 respect to the attachments.

7 MS. LUCKEY: 4.1 and 4.2 were also filed and
8 they are identical to the original versions. We just
9 filed them together for completeness.

10 MR. DE MONTE: And for the record, there is no
11 objection to the filing. I just wanted to make sure
12 I had the correct notation.

13 MS. LUCKEY: Okay.

14 JUDGE JONES: Anything else on that from
15 anyone?

16 (No response.)

17 Let the record show that the exhibits
18 currently sponsored by Ms. Hinman are admitted into
19 the evidentiary record. That includes Staff Exhibit
20 2.0R and 2.1 filed on March 12, 2013, under File
21 Number 2 on e-Docket. Also admitted is Exhibit 4.0R,
22 4.1 and 4.2 as filed and identified on e-Docket with

1 a filing date of March 12, 2013.

2 (Whereupon ICC Staff Exhibits
3 2.0R, 2.1, 4.0R, 4.1 and 4.2
4 were admitted into evidence.)

5 MS. LUCKEY: Thank you, Your Honor. With that,
6 Ms. Hinman is available for cross examination.

7 JUDGE JONES: Okay, thank you. Does counsel
8 for Ameren Illinois have -- well, I guess there are
9 actually two parties with questions for Ms. Hinman,
10 correct?

11 MR. DE MONTE: That's correct. Your Honor.

12 JUDGE JONES: Who would like to go first?

13 MR. DE MONTE: Your Honor, counsel for CUB and
14 myself have discussed, and I will ask a few questions
15 first and then I will step aside and let Ms. Munsch
16 take the microphone as well.

17 JUDGE JONES: All right.

18 CROSS EXAMINATION

19 BY MR. DE MONTE:

20 Q. Good morning, Ms. Hinman.

21 A. Good morning.

22 Q. I am speaking into the microphone so that

1 your counsel can hear me. But if for any reason you
2 can't because of that, please let me know and I will
3 direct my questions to you and hopefully it will be
4 picked up by one of these two microphones that are
5 on.

6 Ms. Hinman, do you have a copy of your
7 direct testimony?

8 A. Yes.

9 Q. If I could please draw your attention to
10 page 4, lines 73 through 83, if you could let me know
11 when you are there?

12 MS. LUCKEY: Jen, can you try and talk into the
13 microphone as well?

14 THE WITNESS: Yes.

15 MS. LUCKEY: Thank you.

16 A. You said 73 through 83?

17 Q. (Mr. DeMonte) Through 83. Yes, it starts
18 on page 4 of your direct and then continues on to
19 page 5. And there you quote that the Commission has
20 defined prudence as, and I am going to read from your
21 testimony and ask you to confirm that I have read it
22 correctly that "the standard of care which a person

1 would be expected to exercise under the circumstances
2 encountered by utility management at the time
3 decisions have been made. In determining whether or
4 not a judgment was prudently made, only those facts
5 available at the time the judgment was exercised can
6 be considered. Hindsight review is impermissible.
7 Imprudence cannot be sustained by substituting one's
8 judgment for that of another. The prudence standard
9 recognizes that reasonable persons can have honest
10 differences of opinion without one or the other
11 necessarily being 'imprudent'." Did I read that
12 correctly?

13 A. I think you missed the word "reasonable"
14 which referred to the first person, but in general
15 you read it accurately, I guess.

16 Q. Thank you for following diligently and I
17 apologize for missing those words. But this is the
18 standard that you quoted in your testimony and -- or
19 the standard that's reflected in your testimony. You
20 would agree with me that that's the prudence standard
21 that should be applied in this docket, correct?

22 A. Yes.

1 Q. And to confirm, this is the prudence
2 standard -- I should say, the prudence standard
3 quoted in your direct testimony was the prudence
4 standard you applied when making your recommendations
5 in this docket, correct?

6 A. Yes.

7 Q. And like your counsel, I am going to ask
8 you to go back and forth on a few different
9 documents. So, of course, I will give you the time
10 to go. So I would ask you to please turn to your
11 rebuttal testimony which is ICC Staff 4.0R. Turn to
12 page 23. Let me know when you are there, please.

13 A. I am there.

14 Q. And in lines 539 through 542, do you see
15 that in your testimony?

16 A. Yes.

17 Q. Here is where you set forth Staff's only
18 recommendation in this docket which states,
19 "Question: Please summarize your recommendations."
20 And you answer, "I recommend that the Commission
21 approve my adjustment to Rider GER recoverable costs
22 to disallow all SB HVAC Program costs recovered

1 through Rider GER for PY2, \$119,550." Is that
2 correct?

3 A. Correct.

4 Q. If I can ask you to please turn to page 19
5 of your rebuttal testimony?

6 A. I am there.

7 Q. Here on lines 429 through 431 you have a
8 sentence that starts with "however." Do you see
9 that?

10 A. Yes.

11 Q. And you state in your testimony, "I do not
12 recommend disallowing the PY1 SB HVAC Program costs,
13 despite the fact that it caused the entire gas
14 portfolio to produce negative net benefits in PY1."
15 Did I read that correctly?

16 A. Correct. This is a Plan Year 2
17 reconciliation. My understanding is you can't go
18 back to Plan Year 1.

19 Q. And thank you.

20 A. In making a recommendation.

21 Q. I didn't mean to cut you off. Are you
22 finished with your answer?

1 A. Yes.

2 Q. So it is your position that, on the basis
3 of imprudence, Staff could not have recommended
4 disallowance of the PY1 SB HVAC Program costs,
5 correct?

6 A. In this case.

7 Q. In this docket, that's correct.

8 A. That's my understanding.

9 Q. And are you familiar with ICC Docket
10 09-0535 which is the PY1 program costs reconciliation
11 docket?

12 A. I was not a witness in that case.

13 Q. I understand. My question is, are you
14 aware of that Final Order?

15 A. I am aware it exists, but I don't believe I
16 have ever read it like through to the last page or
17 anything.

18 Q. So you did not review the Final Order? I
19 just want to make sure I understand your answer. You
20 did not review the Final Order in 09-0595 when --

21 A. Correct.

22 Q. Let me finish. I'm sorry. When making

1 your recommendations in this case, is that correct?

2 A. Correct.

3 Q. If I could have you please turn to your
4 direct testimony and specifically page 5?

5 A. Okay.

6 Q. Thank you. On lines 84 through 87 you were
7 asked a question that reads, "Please describe the
8 basis of your proposed disallowance, including your
9 understanding of the circumstances encountered by
10 utility management at the time decisions had to be
11 made regarding the Small Business HVAC Program." Did
12 I read that correctly?

13 A. Yes.

14 Q. And in your answer which is set forth in
15 lines 88 through -- I am sorry, through 138, that
16 comprises your answer to the bases of your proposed
17 disallowance in this case, correct?

18 A. Yes, the main reasons.

19 Q. And, I am sorry, you said the main reasons
20 as opposed to the bases of your proposed
21 disallowance; there is additional reasons for your
22 proposed disallowance other than what's set forth in

1 lines 88 through 138?

2 A. Those are the main reasons. However, there
3 is details, you know, that relate to those reasons
4 that I didn't, you know, include there.

5 Q. But it is fair to say generally this
6 provides the bases, the factual bases, for your
7 proposed disallowance, correct?

8 A. Yes. Let me review this just to double
9 check.

10 Q. Please.

11 A. There is more.

12 MS. LUCKEY: I think I am going to have to
13 object to this question. I think the bases of
14 Ms. Hinman's testimony is everything she has cited to
15 and quoted in the entirety of her testimony. I think
16 what we are looking at here is a summary of why she
17 is proposing her disallowance, which is exactly what
18 it says, and I think the testimony speaks for itself.
19 We can certainly confirm that this is a summary, but
20 limiting what the bases of her proposed disallowance
21 is to these lines, I think, is a mischaracterization
22 of her testimony.

1 MR. DE MONTE: Your Honor, in response, if I
2 could quote, the question that was asked that
3 elicited the response, it says, "Please describe the
4 bases of your proposed disallowance, including your
5 understanding of the circumstances encountered by the
6 utility management at the time decisions had to be
7 made regarding the Small Business HVAC Program." I
8 don't believe that question is qualified in any way.

9 JUDGE JONES: Yeah, that objection may have
10 gone more to some questions that preceded that
11 particular one, but I think the question is, as
12 asked, is not one that would be objected to or one
13 for which an objection will be sustained, based on
14 the argument that has been made. So are you ready to
15 answer the question?

16 A. So within the question I say "including
17 your understanding of the circumstances encountered
18 by utility management at the time decisions had to be
19 made." So there I was pointing out or focused
20 primarily on the information I was aware of that the
21 Company knew and I had citations to at that point.

22 Q. And when you say "at that point," you mean

1 at the time you filed your direct testimony, correct?

2 A. Yes.

3 Q. If I could draw your attention to the
4 attachments to your rebuttal exhibit which I believe
5 has been marked as 4.01 and 4.01R, Attachment 2 -- I
6 am sorry, 4.01R, Attachment 1 and Attachment 2.

7 A. What page?

8 Q. This is going to be attached to your
9 rebuttal testimony. These are the attachments to
10 your exhibit testimony. I just wanted to draw your
11 attention to those two documents that are attached.
12 And the question I was going to ask you is just to
13 confirm that the two documents that are cited here in
14 your direct testimony are the same documents which
15 you subsequently attached to your rebuttal testimony,
16 correct?

17 A. Correct.

18 Q. If I could go back to your response?

19 A. I also do cite the outstanding Order.

20 Q. I am sorry, and I would ask if you would
21 answer the questions that I present. But just to
22 confirm what you have just stated, first, the two

1 attachments that you were referencing at lines 93 and
2 94 of your direct testimony, those are the same
3 documents that were subsequently attached to your
4 rebuttal testimony, correct?

5 A. Correct, yes.

6 Q. Just in those lines, is what I was asking.

7 A. Oh, correct.

8 Q. Thank you. Now, in lines 90 through 91 of
9 this testimony you identify three numeric values
10 there. Do you see that?

11 A. Yes.

12 Q. And there is a reference to total resource
13 costs or, quote, the TRC test, am I correct?

14 A. Correct.

15 Q. In line 90 you use the term -- in line 90
16 you use the term, quote, net benefits. Do you see
17 were you note net benefits?

18 A. Yes.

19 Q. And am I correct that the term "net
20 benefits" means having a TRC value of greater than
21 one?

22 A. Yes.

1 Q. And if you had a program with a TRC value
2 of greater than one, you would consider it providing
3 net benefits, correct?

4 A. Correct.

5 Q. And the converse is true; if the program
6 had a TRC value of less than one, you would consider
7 it not providing benefits, isn't that also correct?

8 A. Yes.

9 Q. Now, in Footnote 9 on the same page you
10 provide an explanation of the TRC benefit to cost
11 ratio. Do you see that?

12 A. Yes.

13 Q. And there you cite to the California
14 Standard Practice Manual at 18 through 19 as the only
15 source of that explanation, right?

16 A. Yes.

17 Q. Is it fair to say that at a high level the
18 TRC test is meant to compare benefits to costs?

19 A. Yes.

20 Q. And the TRC test itself comprises several
21 different inputs that go into the calculation to
22 determine what those benefits and costs are, correct?

1 A. Correct.

2 Q. For example, inputs for benefits could be
3 gas savings, right? It could be electric savings as
4 well?

5 A. Yes.

6 Q. And, I am sorry, the answer to my first
7 question was yes? I think I, unfortunately, stepped
8 on your answer. I apologize for that. The inputs,
9 the benefits could be for gas savings, right?

10 A. Yes.

11 Q. Or it could also be certain silent
12 benefits, isn't that correct?

13 A. Yes.

14 Q. And the costs, an example of costs, would
15 include the dollars spent administering the program,
16 isn't that right?

17 A. Yes.

18 Q. But there are different definitions of the
19 TRC test, isn't that right?

20 A. That's correct.

21 Q. And the inputs that go into a particular
22 TRC test calculation can change, depending on the

1 definition of the TRC test that's being used during
2 the calculation, right?

3 A. That's correct.

4 Q. Ms. Hinman, do you have available to you
5 Mr. Woolcutt's testimony, rebuttal testimony, and
6 specifically the attachment to his testimony?

7 A. Yes.

8 Q. Attached to that testimony are certain data
9 request responses that you provided to the Company.
10 And if not, I have a copy for you that you could use.

11 A. Okay. Which other?

12 Q. The data request response AIC-ICC 2.13 and
13 I believe that's found on page 15 of Mr. Woolcutt's
14 Ameren Exhibit 6.1.

15 A. And it is 2 --

16 Q. 2.13, and I am sorry, AIC-ICC 2.13. Oh,
17 and I apologize, I should have said surrebuttal
18 testimony, Ameren Exhibit 6.1. That will probably
19 clarify a little better what we are talking about
20 here.

21 A. Okay. I see it.

22 Q. Thank you. And you were asked the

1 following question -- or Staff was asked the
2 following question: "Is it Staff's position that for
3 purposes of this docket, calculations using the TRC
4 test should reflect inclusion of both electric and
5 gas benefits of a program or measure." Do you see
6 that question?

7 A. Yes.

8 Q. And in your response in the last paragraph
9 you state in part two different statutory definitions
10 of the TRC test were in place at certain points
11 during PY2, and you later note that that was for the
12 electric program, is that correct?

13 A. Correct.

14 Q. You also provide an understanding in
15 paragraph two of the response that the statutory --
16 that the Illinois statute defining the TRC test in
17 Illinois was, quote, modified to include the addition
18 of gas benefits as well as other quantifiable
19 societal benefits. Do you see that?

20 A. Yes.

21 Q. And the modification that you are referring
22 to you note occurred approximately one month into the

1 PY2 implementation cycle, right?

2 A. Correct.

3 Q. If one accounts for additional benefits in
4 a TRC calculation and assuming the costs stay the
5 same, the resulting TRC value would go up, correct?

6 A. Correct.

7 Q. So it is entirely possible that the exact
8 same program could have a TRC value of below one
9 under one definition of the TRC test but would have a
10 greater than one value under a different TRC test,
11 correct?

12 A. It is possible.

13 Q. And TRC test results are sensitive to when
14 you perform the calculation as well, correct?

15 A. Yes, depending on the voided costs and
16 other factors.

17 Q. Right. There are multiple factors that go
18 into the TRC test, correct?

19 A. Yes.

20 Q. And those are sensitive. The ultimate
21 result is sensitive to when you calculate the TRC
22 value, correct?

1 A. Yes.

2 Q. And I am going to ask you a hypothetical
3 and I am going to ask you that you follow my
4 assumptions and that you don't inject assumptions
5 that I haven't provided for you. But, of course,
6 please ask questions if you need to clarify what the
7 question is. Okay?

8 JUDGE JONES: Before you do that, let me ask
9 you something. You are looking at Ameren Exhibit
10 6.1. Across the top of that, second line, the word
11 "confidential" appears.

12 MR. DE MONTE: Yes, Your Honor. If I could
13 clarify those designations on the confidentiality, as
14 you know Staff and CUB filed revised exhibits that
15 reflected certain confidential information no longer
16 having that designation of confidential, and the data
17 request responses that bear that designation, I can
18 ask formally if those are lifted as well, but these
19 responses that have been put into the record are not
20 confidential.

21 JUDGE JONES: So no part of 6.1 is
22 confidential, is that correct?

1 MR. DE MONTE: That's right, Your Honor. And
2 for clarity of the record, the Joint Exhibit 1 that
3 was filed by the Company and Staff, the same would
4 apply for those data request responses as well. And
5 thank you for clarifying that.

6 JUDGE JONES: Thank you. You can go ahead with
7 your question.

8 Q. (Mr. DeMonte) Assume for the moment that
9 there is a 12-month long program and that the program
10 includes an incentive in the form of a coupon that
11 can be used to purchase an energy efficiency
12 appliance, okay?

13 A. Okay.

14 Q. Assume further that it takes five months to
15 get the coupons created, printed and delivered to the
16 right customers. Okay? And assume further that no
17 customers received or used those coupons until the
18 sixth month. All right?

19 So far do you understand the premise?

20 A. Yeah.

21 Q. If at the end of the fifth month one
22 calculated the present TRC value of that program, it

1 would have to have a value of less than one, correct?

2 MS. LUCKEY: I have to object. I think this
3 hypothetical isn't specific enough. We have already
4 determined or counsel has already confirmed with
5 Ms. Hinman that there are many factors that go into
6 the TRC test. We don't know what any of those other
7 factors are in calculating the TRC value that we are
8 talking about in this hypothetical.

9 MR. DE MONTE: Your Honor, in response, the TRC
10 calculation compares costs to benefits. In my
11 hypothetical, and I tried to be more concrete and I
12 can try to give more specifics but I don't think they
13 would be helpful, the only questions -- the only
14 assumptions that need to be made is that there are no
15 benefits that have been received under the program
16 and there have been costs. So the question presented
17 to the witness is, in such a scenario would the TRC
18 value be less than one.

19 JUDGE JONES: I will allow the question but
20 will give the witness wide latitude in answering it.
21 Do you need it read back?

22 THE WITNESS: Yes. Could you please read it

1 back?

2 MR. DE MONTE: I can also rephrase it as the
3 way I had asked, Your Honor.

4 Q. In my hypothetical, Ms. Hinman, no customer
5 has received or used the coupons until the sixth
6 month. So at the end of the fifth month, if one were
7 to calculate the present TRC value of the program,
8 the TRC value would have to be less than one,
9 correct?

10 JUDGE JONES: Just one moment. Is that a
11 slightly different question or is it the very same
12 question?

13 MR. DE MONTE: I admittedly did not read it
14 verbatim on either occasion, so it is possible that
15 there are a couple words that are --

16 JUDGE JONES: Is the objection still the same?
17 Ms. Luckey, is the objection still the same?

18 MS. LUCKEY: Yes.

19 JUDGE JONES: All right. And the ruling will
20 remain the same.

21 A. Okay. So when you calculate a program
22 level TRC, and that's the gross ratio as calculated

1 for the program, so the people who are creating and
2 printing the materials could have been impacted by
3 what the materials are saying. So even though there
4 hasn't actually been a participating customer in the
5 program, there could be still benefits. So it is not
6 necessarily the case that it would definitely be a
7 TRC of less than one.

8 Q. (Mr. DeMonte) So if I understand your
9 answer, you qualified your answer because there is a
10 variety of variables that could go into the TRC
11 testing that could affect the outcome and ultimate
12 value of that test, correct?

13 A. Correct.

14 Q. And I believe you identified that's gross
15 ratios, right, and spill over, correct?

16 A. Correct.

17 Q. And all of those things add to the
18 sensitivity of the TRC test, isn't that correct?

19 A. Correct.

20 Q. So in my -- I am going to ask the question
21 in a slightly different way. If you have a program
22 that has no savings attributed to it, no benefits

1 attributed to it, but costs, you would agree with me
2 that the TRC value, when calculated under such
3 assumptions, would have to be less than one, correct?

4 A. If you are seeing fewer benefits and costs
5 greater than one, then, yes, they would equal zero,
6 the ratio at least.

7 Q. So in my hypothetical if we had calculated
8 that and those assumptions were made in the fifth
9 month, so at the end of the fifth month the TRC value
10 of that program which had no benefits associated but
11 had costs, that would be zero, correct? Or I am
12 sorry, that would be less than --

13 A. It would be less by whatever the costs are.

14 Q. Zero divided by whatever the costs were.
15 So it would be at or around zero, correct?

16 A. Yes.

17 Q. But assume now in the 6th through 12th
18 month benefits are achieved in the program, okay.
19 This is a 12-month program in my hypothetical. So
20 when you calculate the TRC values between the 1st
21 month and the 12th month, that TRC value would be
22 greater than the value that was calculated in the

1 fifth month, correct?

2 A. Not necessarily, if there is
3 cost-ineffective measures being promoted in the later
4 months.

5 Q. And let me remove that variable. So in my
6 hypothetical costs stay the same throughout, okay.
7 The only thing that's going to increase are the
8 benefits that are calculated under the TRC
9 calculation. So costs stay the same but there are
10 benefits now. You would agree with me that the
11 resulting TRC value would be higher than if you
12 calculated a TRC value with zero benefits and the
13 same costs, correct?

14 A. The costs that you are referring to sounded
15 like start-up costs, program implementation costs,
16 not the measure costs. Therefore, if you are going
17 to have the benefits increase, the costs necessarily
18 have to increase. And if it is a cost-ineffective
19 measure that is being promoted, which is the case in
20 this proceeding, then, no, it would not necessarily
21 be greater than one.

22 MR. DE MONTE: Your Honor, I would move to

1 strike that answer as non-responsive to the
2 hypothetical which I posed which simply said, if you
3 have a program that was calculated at the end of 12
4 months that had costs and benefits, that would have a
5 TRC value greater than if you calculated the same
6 program with no costs or, excuse me, with the same
7 costs and no benefits.

8 MS. LUCKEY: And if I remember correctly, Your
9 Honor, you gave the witness wide latitude in
10 answering any questions related to this hypothetical,
11 and that's exactly what Ms. Hinman has done with her
12 answer.

13 MR. DE MONTE: And, Your Honor, I would just
14 say she changed the assumptions that were provided in
15 the hypothetical about defining the costs.

16 JUDGE JONES: Could I have the question read
17 back, Ms. Reporter? Thank you.

18 (Whereupon the requested portion
19 of the record was read back by
20 the Reporter.)

21 JUDGE JONES: I think the test really is when
22 one has to rule on objections of this nature is

1 whether the witness attempted to answer the question
2 that was asked or essentially answered a slightly
3 different question, though it may be related to the
4 original question. I think at least for the most
5 part the witness answered a different question than
6 the one that was specifically posed to the witness.
7 So for that reason the answer is stricken.

8 I will ask the witness to answer the
9 question that was asked if she understands it. And
10 if you don't understand the question, you can so
11 indicate and we will figure it out from there.

12 THE WITNESS: I guess I don't understand the
13 question. Could you rephrase, please?

14 Q. (Mr. DeMonte) Assuming that the costs stay
15 the same throughout the duration of the 12-month
16 program but at the end of the 12-month program you
17 calculate the TRC value with the benefits that were
18 reflected in the 6th to 12th month, you would agree
19 with me that the TRC value calculated at the end of
20 the program would be higher than the TRC value that
21 was calculated at the end of the 5th month, correct?

22 A. Under your hypothetical, if you add

1 benefits where they are -- to fixed costs, then the
2 TRC value would be higher hypothetically.

3 Q. Thank you. And, Ms. Hinman, you would
4 agree with me that it is up to the person who is
5 calculating the TRC values whether or not -- it is
6 the person who is calculating the TRC values who
7 ultimately determines what benefits and costs go into
8 the calculation, correct?

9 A. Yes.

10 JUDGE JONES: Now, have you -- I am sorry for
11 cutting you off. But have you left your hypothetical
12 or are you still in your hypothetical?

13 MR. DE MONTE: Thank you, Your Honor. I have
14 left my hypothetical. This is another question.
15 Thank you for answering.

16 JUDGE JONES: I cut you off. I don't know if
17 you got your answer out there.

18 A. In some cases the Commission could create
19 certain rules that should be followed instead of
20 whoever puts in the analysis. The TRC analysis would
21 presumably follow those requirements.

22 Q. So just to confirm, ultimately it is the

1 person who is calculating the TRC test, that person
2 determines what the Commission has ruled or their
3 interpretation of what the Commission has ruled as to
4 what benefits and costs should be calculated within
5 the TRC test, correct?

6 A. Yes, if they are performing the test.

7 Q. And different people could have different
8 opinions as to what should go into a particular TRC
9 test calculation, correct?

10 A. Correct.

11 Q. And those disagreements, in your opinion
12 would they be reasonable?

13 A. Could you be more specific about which
14 disagreements you are referring to?

15 Q. When calculating the TRC values of a
16 particular program or portfolio, the inputs that are
17 selected, would you agree that reasonable people
18 could disagree as to what these inputs could be when
19 calculating a TRC test?

20 MS. LUCKEY: Can I object for a moment, please,
21 so we can clarify the question? Are you referring to
22 the inputs that the Commission has mandated they

1 follow or what are we interpreting that individuals
2 could differ on the inputs?

3 MR. DE MONTE: You know, I can clarify the
4 question, Your Honor.

5 Q. Ms. Hinman, when calculating the TRC test
6 or, excuse me, calculating values under the TRC test,
7 individuals must make decisions as to what inputs are
8 going to be put into the calculation itself. And I
9 am not speaking of things that the Commission has
10 directed but rather the factual underpinnings of the
11 calculation itself. Do you understand the question
12 in that regard?

13 A. I think so. There is some elements where I
14 don't think it would be reasonable to disagree. I
15 don't think reasonable people would disagree, like
16 for example, participation. If really only five
17 people participated, I don't think reasonable people
18 would say, okay, 50 people participated when really
19 there were only five. So, I mean, not in all cases.
20 But for certain things, like what is the appropriate
21 discount rate to use and stuff, would have
22 disagreements then.

1 Q. So just to confirm, there are certain
2 elements of the test that you would agree reasonable
3 people could disagree upon the inputs to be used
4 during the calculation of the TRC value, correct?

5 A. Correct.

6 Q. Thank you. If I could draw your attention
7 to page 5 of your direct testimony?

8 A. Okay.

9 Q. In Footnote 10 specifically, let me know
10 when you are there.

11 A. I am there.

12 Q. You state in your second sentence, "In
13 other words, I have not received nor verified the
14 inputs, underlining assumptions, and model
15 calculations that form the bases of the TRC results
16 presented here." Did I read that correctly?

17 A. Yes.

18 Q. So you cannot testify here today that the
19 TRC values cited in your testimony are in fact the
20 result of a proper TRC calculation, correct?

21 A. By proper what do you mean?

22 Q. Maybe I will ask it a different way. You

1 are not attesting to the accuracy of the TRC results
2 that are reflected in your testimony cited on page 5,
3 correct?

4 A. I am not endorsing, necessarily, all the
5 inputs used, since the Company wasn't able to provide
6 those to me.

7 Q. So you have neither received nor verified
8 the inputs and you are not presenting those, for
9 example, as Staff's calculation, correct?

10 A. Correct.

11 Q. And you would agree with me that the
12 implementer is the one who calculated these TRC
13 values that are cited in your testimony, correct?

14 A. My understanding, I think there is an
15 intern that worked for the implementer who is no
16 longer with the Company.

17 MR. DE MONTE: Thank you. If I could have just
18 one moment, Your Honor.

19 (Pause.)

20 No further questions on cross, Your
21 Honor, for the Company, I should say.

22 JUDGE JONES: Thank you. Ms. Munsch, do you

1 have some questions?

2 MS. MUNSCH: At this point only a couple, Your
3 Honor, so. So I think we will be shorter than my 15
4 minutes which I am sure everyone is relieved to hear.

5 CROSS EXAMINATION

6 BY MS. MUNSCH:

7 Q. Good morning, Ms. Hinman. My name is
8 Kristin Munsch and I represent the Citizens Utility
9 Board in this proceeding.

10 A. Good morning.

11 Q. And a couple of questions just to follow up
12 on what Ameren counsel just asked. I think you did
13 not perform any independent TRC calculation of any
14 measure or program that was presented or was at issue
15 in Program Year 2, is that correct? And by
16 independent, I should clarify, I mean you or to your
17 knowledge anyone on Staff?

18 A. Did not perform for this particular
19 program, no.

20 Q. And you have not evaluated, based on the
21 experience that's listed in your direct testimony,
22 you have not evaluated an energy efficiency program

1 for cost effectiveness, correct?

2 A. In general?

3 Q. In general.

4 A. I have reviewed cost-effectiveness
5 calculations, but I haven't started from the ground
6 up doing each measure and program and stuff. But I
7 have done like at a program level reviewed the
8 measures.

9 Q. And you haven't evaluated it for anything
10 other than cost effectiveness?

11 A. I reviewed the evaluation reports.

12 Q. And in your testimony here you are focused
13 on comparing the costs and benefits of an energy
14 efficiency program overall, is that correct?

15 A. Where is it you are referring to?

16 Q. Just in general. Your testimony is focused
17 on evaluating the cost effectiveness of energy
18 efficiency programs overall?

19 A. I refer to measures and programs overall in
20 a portfolio.

21 Q. And a measure would be potentially part of
22 a program, is that correct?

1 A. Right.

2 Q. And a program would potentially be part of
3 a portfolio?

4 A. Right.

5 Q. I want to turn to your rebuttal on page --
6 or line 99. I should say lines 98 to 99. You state
7 there that ratepayers were harmed by this inaction
8 during Program Year 2, is that correct?

9 A. Correct.

10 Q. By ratepayers, you are referring to the
11 Ameren Illinois customers from whom Rider GER costs
12 were recovered, is that correct?

13 A. Yes.

14 Q. Further down on lines 100 to 101 you state
15 "Discretion to manage the program trumps portfolio
16 level TRC," is that correct?

17 A. Yes.

18 Q. And by trumps, you mean that is placed
19 above?

20 A. I mean they should prudently manage the
21 program. And just because -- they shouldn't use
22 portfolio level TRC as a defense to do -- you know,

1 make imprudent decisions on which measures to propose
2 and market.

3 MS. MUNSCH: I move to strike the answer as
4 non-responsive. I can rephrase if I need to be more
5 specific, but I believe my question was directed at
6 what the meaning of the word "trump" is. I offered
7 an explanation the witness is free to agree or
8 disagree, but.

9 JUDGE JONES: Any response? Ms. Luckey?

10 MS. LUCKEY: I believe that Ms. Hinman was
11 responding directly to the question by saying -- by
12 explaining what she meant by manage the program
13 versus the portfolio and she provided an answer which
14 described program management versus portfolio
15 management.

16 JUDGE JONES: I will not strike the answer. I
17 think the witness did make an effort to answer the
18 question as asked. Certainly, counsel can continue
19 with that line of questioning.

20 Q. (Ms. Munsch) Then let me ask directly,
21 what did you mean by the word "trump"?

22 A. It's more important than just focusing on.

1 I guess that would be how I would make a synonym to
2 that.

3 Q. So it is more important, you mean, the
4 discretion to manage?

5 A. To prudently manage.

6 Q. To prudently manage.

7 A. And by portfolio level TRC, that just
8 means, you know, it is not just like a 1.0. You
9 know, there is like an effort for it to be way
10 greater, you know, larger than it is at the portfolio
11 level which could be issued through the management.

12 Q. On lines 270 and 271 still in the same
13 rebuttal testimony, you state that in future
14 reconciliation proceedings it would also be
15 inappropriate for Ameren to advocate portfolio level
16 cost effectiveness when Illinois statute specifies a
17 measure level cost-effective assessment for OBF
18 expenses that flow through Ameren's energy efficiency
19 riders, is that correct?

20 A. Yes.

21 Q. "Illinois statute" in line 270 refers to
22 the on bill financing statute?

1 A. Yes.

2 Q. It is correct that none of the Small
3 Business HVAC measures including a furnace tune-up is
4 currently being offered through Ameren's on bill
5 financing program, is it?

6 A. Not that I am aware of.

7 Q. Are you aware of what programs are being
8 offered through Ameren's on bill finance?

9 A. Residential inflation type whole home is
10 what I am aware of.

11 Q. Okay. And finally turning to lines 459
12 through 460, again still in your rebuttal testimony,
13 at line 459 the question reads, "How does the Company
14 respond to the first year cost ineffectiveness?" By
15 first year you are referring to Program Year 1 of the
16 Rider GEE program?

17 A. I'm sorry, what line number did you say?

18 Q. 459 of your rebuttal testimony.

19 A. Okay.

20 Q. Do you see the question, "How does the
21 Company respond to the first year cost
22 ineffectiveness"?

1 A. Yes.

2 Q. And to clarify, by first year you are
3 referring to the Program Year 1 of the GEE program?

4 A. Yes.

5 Q. And you go on to answer, your answer says
6 that the Company begins bundling the cost-ineffective
7 furnace tune-up with AC tune-up and a thermostat
8 measure in a special, quote, triad, unquote, offer,
9 is that correct?

10 A. Correct.

11 Q. When you say the Company begins bundling,
12 do you mean that in Program Year 2 the Company began
13 bundling?

14 A. That's my understanding.

15 Q. And a tune-up -- let me -- one more
16 question. The bundle is a furnace tune-up and AC
17 tune-up and thermostat measure; that's all part of
18 the triad?

19 A. Yes, and they are required to do all three.
20 So it is really to promote the thermostat.

21 Q. When you understand a tune-up, would you
22 agree with me that a tune-up, either an AC tune-up or

1 a furnace tune-up, is a -- summarize because I don't
2 want to get too far into this -- is where a
3 contractor of some type comes out and assesses the
4 equipment as a first step?

5 A. No, there is a lot of things that are
6 involved in receiving a furnace tune-up. It is in
7 the joint cross exhibit. Somewhere in there is a
8 description of all the items that they have to
9 perform.

10 Q. All the actions that they have to perform?

11 A. Yes.

12 Q. And these are actions done by individuals;
13 you can't do a tune-up without a person coming to the
14 site?

15 A. Right. So the triad is one person doing
16 all three, so that -- you know, it is helpful.

17 MS. MUNSCH: Okay. That actually answers the
18 questions that I was going to have, so I have no
19 further questions.

20 JUDGE JONES: Okay, thank you. Ms. Luckey, do
21 you have any --

22 MS. LUSSON: Your Honor, this is Karen Lusson.

1 I know I indicated that I didn't have any cross for
2 Ms. Hinman, but I do have a clarifying question
3 related to a sentence in her rebuttal testimony, and
4 I wonder if you would indulge me in that question.

5 JUDGE JONES: Do other parties have any
6 objection to that?

7 MS. MUNSCH: No objection.

8 MR. DE MONTE: No objection.

9 MS. LUCKEY: No objection.

10 JUDGE JONES: All right. Go ahead.

11 CROSS EXAMINATION

12 BY MS. LUSSON:

13 Q. Thank you. Ms. Hinman, if you could turn
14 to page 12 of your rebuttal testimony, specifically I
15 am looking at lines 275 through 279. If you could
16 read that over for a moment?

17 A. Would you like me to read it out loud?

18 Q. No, just so you are familiar with what I am
19 about to ask you.

20 A. Okay.

21 Q. So my question deals specifically with the
22 sentence that reads "Effective measures are the

1 building blocks to effective programs which are the
2 building blocks to an effective portfolio." In that
3 sentence how are you defining "measures" versus
4 "programs"? And perhaps maybe -- well, I will let
5 you go ahead and answer that question.

6 A. How I -- and the question is, for
7 clarification, how am I defining effective programs?

8 Q. No. What -- how are you differentiating
9 between the word "measure" there and "program"? I am
10 not clear on that differentiation.

11 MS. LUCKEY: I just have to object for a
12 second. I think there might be two questions there.
13 Maybe it is easier to answer this in two parts. How
14 would you define a measure and how would you define a
15 program, and then perhaps we can talk about the two
16 together.

17 MS. LUSSEY: Well, I will reword the question.

18 Q. Can you explain the difference between your
19 use of the word "measure" and your use of the word
20 "program" in that sentence?

21 A. In that sense I am pointing out if you have
22 all cost-effective measures within the programs, that

1 can help make the program cost effective. But since
2 program costs come into the equation when you are
3 checking the cost effectiveness of the program, you
4 know, having all cost-effective measures will help
5 the program become cost effective.

6 Q. Well, in that -- with respect to that
7 sentence, is the Small Business HVAC program a
8 measure or a program, as that sentence uses those
9 words?

10 A. The Small Business HVAC program would be a
11 program, and the problem is they were promoting
12 ineffective measures which made the program be
13 ineffective.

14 Q. And how are you defining measures in that
15 sentence?

16 A. The tune-ups. You know, as an example,
17 furnace replacement, boiler replacement, boiler
18 tune-ups. Those are examples of measures in the
19 Small Business HVAC program.

20 Q. And then just so I am clear on your use of
21 the word "portfolio," by portfolio you mean the
22 entire menu of Ameren programs, is that how you are

1 using that word there?

2 A. In this sentence I was trying to just be in
3 general. But if I were to refer to this case, I
4 guess you could say, the entire portfolio would be --
5 I mean, you could look at it several ways. It could
6 be the entire business portfolio, the entire
7 residential portfolio, the combined residential and
8 commercial, or you can distinguish between just a gas
9 portfolio, which is the case, you know, with this
10 plan. They separated the electric and gas in two
11 different Orders.

12 Q. And then just so I am clear on what you are
13 proposing to disallow, it is the tune-up part of the
14 HVAC program, as I understand your testimony, was the
15 inefficient portion of that program, is that correct?

16 A. That's -- yes.

17 Q. So does your disallowance simply remove the
18 tune-up portion or are you proposing to remove the
19 costs of the HVAC program?

20 A. I propose to use the cost of the HVAC
21 program because I didn't have a breakout of the costs
22 to distinguish between even how much, you know, labor

1 would be, the rest of the measures versus the
2 tune-ups. And I have reviewed the Company's invoices
3 regarding this, and there is just not a clear
4 breakout. But given they are saying that the
5 tune-ups were very labor intensive, it seems like the
6 vast majority is coming from the tune-ups. And the
7 Company never proposed in rebuttal or surrebuttal a
8 way to break out those costs for me to consider.

9 MR. DE MONTE: Your Honor, I know I am not
10 asking the questions, but on behalf of the Company I
11 would move to strike that last portion of Ms.
12 Hinman's testimony related to the Company's rebuttal
13 and surrebuttal.

14 JUDGE JONES: Response, Ms. Luckey?

15 MS. LUCKEY: That's fine. I think that
16 Ms. Hinman answered before. That sentence was more
17 than enough to answer the question.

18 JUDGE JONES: All right. The motion to strike
19 the last sentence is sustained, granted.

20 Q. (Ms. Lusson) Finally, Ms. Hinman, on page
21 11 when you discuss your reading of Section 16-111.5B
22 and 16-111.5B(a)4, actually (a)3 and (a)4, there

1 again there is a reference to the word where it is
2 programs and measures?

3 A. Yes.

4 Q. So are you equating the tune-up portion of
5 the HVAC program with the word "measure" as it
6 appears in that quoted section of the statute? And I
7 am not asking for a legal definition here. I am just
8 asking for -- since you cited this as sort of a
9 preface to that later discussion, I just want to make
10 sure you are viewing that term "measure" the same way
11 you do in the sentence we just discussed.

12 MS. LUCKEY: I have to object because I don't
13 think that that's what Ms. Hinman is talking about in
14 this portion of her testimony. She doesn't say
15 anything about the SB HVAC program anywhere in the
16 lines that have been quoted.

17 MS. LUSSON: Your Honor, I am just trying to
18 get an understanding of why these sections are quoted
19 in terms of a discussion about measures, programs and
20 portfolios.

21 MS. LUCKEY: But this particular line of
22 questioning had to do with other policies in Illinois

1 related to this issue that involved funds that flow
2 through the energy efficiency riders.

3 MS. LUSSON: Well, I am not sure -- that may be
4 the case, but I am just trying to understand how the
5 word "measure" is being interpreted in this
6 testimony. We have had a discussion about what
7 Ms. Hinman believes measures means in that sentence
8 that begins at line 276, and I just want to clarify
9 as to whether that same definition of measures is
10 being applied in her discussion or review of these
11 statutory sections.

12 JUDGE JONES: All right. Thank you. I believe
13 the question is permissible, given the explanation by
14 Ms. Lusson. We would ask the witness to answer it if
15 she can. Do you need it -- if you do understand it,
16 you can tell us. And if you need it read back, we
17 can have that done, too.

18 A. So your question, just to clarify, within
19 the quote to the statute where it says "measures" on
20 line 254, would I consider that measure to also be a
21 tune-up measure as discussed within this case?

22 Q. Well, I guess my question is, since you

1 defined measure as the tune-up portion of the HVAC
2 program back in line 276, when you are referencing
3 the statute and the use of the word "measure" here,
4 are you using it in that same context, that is a
5 subset of a program?

6 A. Yes, tune-ups are subsets of programs
7 unless the program consisted of only tune-ups, which
8 I think was the case for the most part in a portion.

9 Q. And then just to clarify at lines 257
10 through 260 your recommendation about future
11 reconciliation proceedings, there you are asking that
12 the cost-effectiveness evaluation be at the program
13 level going forward?

14 A. I wasn't asking. I was just stating the
15 fact that the programs that are approved through the
16 procurement are assessed on a program level basis.
17 They have to be cost effective at the program level
18 to even be approved. Some of those programs are
19 extensions of existing programs, you know, like
20 existing electric programs, which, you know, the
21 electric Order, the first electric Order and
22 subsequent Orders were talking about portfolio level.

1 So I was just pointing out that, you
2 know, there are -- there is not just a portfolio
3 level view in Illinois in every single case.

4 MS. LUSSON: Thank you, Ms. Hinman.

5 JUDGE JONES: Ms. Luckey, do you have redirect?

6 MS. LUCKEY: Your Honor, if the parties don't
7 object, we would like a moment to confer with our
8 client. We need to step away for just a moment.

9 JUDGE JONES: Any objection to that?

10 MS. MUNSCH: No objection.

11 (Whereupon the hearing was in a
12 short recess.)

13 JUDGE JONES: Back on the record.

14 Ms. Luckey, do you have some redirect?

15 MS. LUCKEY: We have only one question on
16 redirect, Your Honor.

17 JUDGE JONES: Please proceed.

18 REDIRECT EXAMINATION

19 BY MS. LUCKEY:

20 Q. Ms. Hinman, do you recall Ms. Munsch asking
21 you a question regarding furnace tune-ups being
22 bundled with other measures in a triad offer?

1 A. Yes.

2 Q. Are you aware of whether the Company
3 continued to offer the furnace tune-ups separately
4 from that bundle?

5 A. Yes. My understanding is in addition to
6 the triad offer, they continue to promote the
7 tune-ups as a separate measure outside of the triad
8 offer.

9 MS. LUCKEY: Thank you. No further questions.

10 JUDGE JONES: Is there any recross?

11 MS. MUNSCH: No, Your Honor.

12 JUDGE JONES: Thank you.

13 (Witness excused.)

14 MS. LUCKEY: Your Honor, when might be an
15 appropriate time for us to put in the testimony of
16 the other Staff witness?

17 JUDGE JONES: You could go ahead and do that
18 now, if you would like.

19 MS. LUCKEY: Okay, great. Staff would move for
20 admission into evidence ICC Staff Exhibit 1.0, the
21 direct testimony of Scott Tolsdorf which consists of
22 a cover page, five pages of narrative testimony, and

1 Schedules 1.1 through 1.2, and was filed on the
2 Commission's e-Docket filing system on March 1, 2012.

3 In addition, Staff would move for
4 admission into evidence ICC Staff Exhibit 3.0, the
5 rebuttal testimony of Scott Tolsdorf which consists
6 of a cover page, four pages of narrative testimony,
7 and Schedules 3.1 through 3.2, and was filed on the
8 Commission's e-Docket filing system on October 10,
9 2012.

10 And last, Staff would move for
11 admission into evidence ICC Staff Exhibit 3.1 which
12 is the affidavit of Scott Tolsdorf and was filed on
13 the Commission's e-Docket filing system on March 8,
14 2013.

15 JUDGE JONES: Okay, thank you. Any objections
16 or clarifications regarding those exhibits?

17 (No response.)

18 Let the record show there are not.
19 Those Staff exhibits are hereby admitted into the
20 evidentiary record as filed on e-Docket. They bear
21 the identification number and file dates as noted by
22 Ms. Luckey.

1 MS. LUCKEY: Thank you.

2 (Whereupon ICC Staff Exhibits
3 1.0, 3.0 and 3.1 were admitted
4 into evidence.)

5 JUDGE JONES: Off the record very briefly
6 regarding scheduling.

7 (Whereupon there was then had an
8 off-the-record discussion.)

9 JUDGE JONES: Back on the record.

10 There was a short off-the-record
11 discussion for the purpose indicated. I think the
12 plan of preference is to proceed with the next
13 witness. So Ms. Munsch?

14 MS. MUNSCH: Thank you, Your Honor. CUB calls
15 Rebecca Devens.

16 JUDGE JONES: Okay. Thank you. Please raise
17 your right hand to be sworn.

18 (Whereupon the witness was duly
19 sworn by Judge Jones.)

20 JUDGE JONES: Thank you. Please be seated.

21 MS. MUNSCH: And I am not sure, you might want
22 to make sure your microphone is on. Thank you.

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REBECCA DEVENS

called as a witness on behalf of the Citizens Utility Board, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. MUNSCH:

Q. Ms. Devens, can you please state your name and place of employment for the record, along with your business address.

A. Sure. Rebecca Devens. I am with the Citizens Utility Board and my business address is 309 West Washington, Suite 800, Chicago, Illinois zip code 60606.

Q. And do you have before you what has been marked as Revised Rebuttal Testimony of Rebecca Devens on behalf of the Citizens Utility Board, CUB Exhibit 1.0 Revised. This is testimony that was originally filed on October 9 in both public and confidential form and was refiled yesterday, March 12, 2013 to correct typographical errors and to reflect the change in the designation of confidential information?

1 A. Yes.

2 Q. Do you have any further corrections to make
3 to the Revised CUB Exhibit 1.0 at this time?

4 A. No.

5 Q. And was this testimony prepared by you or
6 under your direct supervision and control?

7 A. Yes.

8 Q. And if I asked you the same questions
9 today, would you give the same answers today?

10 A. Yes.

11 MS. MUNSCH: At this time CUB moves for the
12 admission of CUB Exhibit 1.0 Revised.

13 JUDGE JONES: Okay, thank you. Do other
14 parties have any objections or clarifications with
15 respect to that exhibit?

16 (No response.)

17 All right. They do not. At this time
18 let the record show that CUB Exhibit 1.0 Revised is
19 hereby admitted into the evidentiary record as filed
20 on e-Docket on March 12, 2013.

21 (Whereupon CUB Exhibit 1.0

22 Revised was admitted into

1 evidence.)

2 The witness is tendered for cross?

3 MS. MUNSCH: Thank you, Your Honor, and

4 Ms. Devens is available for cross.

5 CROSS EXAMINATION

6 BY MS. ARMSTRONG:

7 Q. Ms. Devens, my name is Kelly Armstrong. I
8 will be asking you a few questions this afternoon
9 regarding your testimony filed. I would like to
10 confirm a few things with you about your role at CUB.
11 You have been employed there since 2008, correct?

12 A. Yes.

13 Q. And your responsibilities at CUB, you
14 stated, include research and evaluation of state and
15 federal legislative and regulatory proposals relating
16 to electricity and gas issues, among others, correct?

17 A. Yes.

18 Q. You are also CUB's representative at the
19 Stakeholder Advisory Group otherwise known as STAG,
20 correct?

21 A. Yes.

22 Q. And in your prefilled testimony you stated

1 that STAG is the collaborative group that monitors
2 utility implementation of energy efficiency and
3 demand response programs, is that correct?

4 A. Yes.

5 Q. What do your duties entail as the CUB
6 representative for STAG?

7 A. I attend meetings, participate in
8 discussions, review presentations, conversations
9 given at meetings from utility representatives,
10 participate in Stakeholder discussions.

11 Q. So you do review the reports that the
12 utilities present to STAG?

13 A. Yes.

14 Q. Do you have a copy of your direct testimony
15 -- I am sorry, your revised rebuttal testimony with
16 you on the stand today?

17 A. Yes, I do.

18 Q. Thank you. I just want to go over the
19 materials that you reviewed. At lines 71 to 72 of
20 your revised testimony you stated that you reviewed
21 Ameren's direct and rebuttal as well as the testimony
22 of Staff in discovery, is that correct?

1 A. Yes.

2 Q. Did you also review Staff's rebuttal
3 testimony and Ameren's surrebuttal?

4 A. Yes.

5 Q. Did you review and read the Commission's
6 Final Order in Docket 08-0104 which was issued on
7 October 15, 2008?

8 A. Yes.

9 Q. Did you review and read the Commission's
10 Final Order in Docket 10-0568 which is issued on
11 December 21, 2010?

12 A. Yes.

13 Q. Did you review and read the Commission's
14 Final Order in Docket 07-0539 which was issued on
15 February 6, 2008?

16 A. Yes.

17 Q. Thank you. I would like to direct you to
18 page 12 of your testimony. On lines 253 to 254 you
19 state, "While the program under dispute is a Rider
20 GER program, this is the first annual reconciliation
21 proceeding for the Rider EDR-EEPS program."

22 MS. MUNSCH: Can you hold on one second while I

1 find the reference? I am sorry.

2 MS. ARMSTRONG: Oh, I am sorry.

3 MS. MUNSCH: 253 to 258. Sorry. Thank you.

4 Q. (Ms. Armstrong) So just to restate my
5 question, at lines 253 to 254 you state, "While the
6 program under dispute is the Rider GER program, this
7 is the first annual reconciliation proceeding for the
8 Rider EDR-EEPS program," correct?

9 A. Yes.

10 Q. Is that information correct or is that a
11 typo? Shouldn't it say second year reconciliation?

12 A. This is the second year of the Rider EEPS
13 program.

14 Q. So did you mean to imply that there was no
15 annual reconciliation for the first year of programs
16 for Rider EDR-EEPS programs?

17 A. No.

18 Q. I would like to turn now to page 6 of your
19 revised rebuttal testimony. But keep your finger on
20 page 12; we are going to go back to that. But on
21 page 6 you begin a discussion labeled Expenses for
22 the SB HVAC program should not be allowed, is that

1 correct?

2 A. Yes.

3 Q. Now, within that same section but back on
4 page 12, at line 241 you refer to Ms. Hinman's
5 recommendation from 241 to 246, correct?

6 A. Yes.

7 Q. And can I assume that the recommendation
8 that you are referring to here is the expenses for
9 the Small Business HVAC program that should be
10 disallowed?

11 A. I believe that was primarily in response to
12 her recommendation that I point out on line 36 on
13 page 3.

14 Q. So on lines 239 to 240 the question about
15 should the failure of a measure to pass the TRC while
16 the program is being implemented be grounds for
17 disallowance of recovery of costs for the measure,
18 correct?

19 A. Yes.

20 Q. And your response is, "No, Ms. Hinman's
21 recommendation contradicts existing Commission
22 policy." That's the first portion of your answer on

1 line 241, correct?

2 A. Yes.

3 Q. And you are talking in that case about the
4 recommendation that expenses for the SB HVAC program
5 should be disallowed, correct?

6 MS. MUNSCH: Objection, asked and answered.
7 The witness already said what recommendation she is
8 referring to. She gave a specific cite.

9 JUDGE JONES: Any response?

10 MS. ARMSTRONG: That's fine. I will withdraw
11 that question.

12 Q. Moving to lines 177 and 179 of your
13 testimony on page 9, you stated that, quote, Nothing
14 in previous Commission Orders leads me to believe
15 that the Commission did not envision the Rider GER
16 program would share the same cost-effectiveness
17 criteria as the Rider EDR programs, correct?

18 A. Yes.

19 Q. Is it true that the Commission also has
20 never issued an Order which stated that the
21 cost-effective criteria must be the same for the two
22 riders, Rider GER and Rider EDR?

1 A. To my knowledge that is correct.

2 Q. So you are not aware of any Order issued by
3 the Commission with regards to Ameren's Riders GER
4 and EDR which states that the cost-effectiveness
5 criteria must be the same?

6 MS. MUNSCH: Objection, asked and answered.

7 MS. ARMSTRONG: It is a different question,
8 Your Honor.

9 JUDGE JONES: I think it is a little bit
10 different. Would you like it read back?

11 THE WITNESS: Could you read the question back?

12 (Pause.)

13 JUDGE JONES: Why don't you just go ahead and
14 re-ask the question, Ms. Armstrong?

15 Q. (Ms. Armstrong) So you are not aware of
16 any Order issued by the Commission with regards to
17 Rider GER and EDR which states that the
18 cost-effectiveness criteria must be the same?

19 A. Correct.

20 Q. Thank you. I have already asked and you
21 have already indicated that you have read the Final
22 Order in Docket Number 08-0104. Would you agree that

1 the 08-0104 Final Order authorized Ameren's gas
2 energy efficiency portfolio?

3 A. Yes.

4 Q. Okay. Turning to your testimony at lines
5 144 to 145, you stated that the only conclusion the
6 Commission reached was that Ameren's overall TRC test
7 result for the entire portfolio of the Rider GER
8 program was 2.35, is that correct?

9 A. Yes.

10 Q. And just to fall back, you stated -- I am
11 sorry, hang on one moment. Just above that you
12 stated, "The Commission discusses the TRC test in
13 relation to the Rider GER program in that docket."
14 Do you have a copy of that Order with you today?

15 A. Yes.

16 Q. Okay. I would like you to look at page 22
17 under Part 7, Financial Ordering Paragraph.

18 Counsel, do you have a copy as well?

19 MS. MUNSCH: We do, yes, and I think if you
20 have got one extra, that would be good for Ameren.
21 Thank you, Judge. And we are giving one to the
22 Judge.

1 MS. ARMSTRONG: Thank you.

2 MS. MUNSCH: Page 22, I think, is that --

3 MS. ARMSTRONG: Correct.

4 Q. Under Part 7, Financial Ordering Paragraph,
5 the Commission made four separate findings, is that
6 correct?

7 A. Yes.

8 Q. Okay. And under Finding Number 3 on that
9 page it states that the Commission finds that, quote,
10 Recital of the facts and conclusions reached in the
11 prefatory portion of this Order are supported by
12 evidence of record and are hereby adopted as findings
13 of fact, correct?

14 A. Yes.

15 Q. So it wouldn't exactly be precise when you
16 said at lines 146 to 147 that the only conclusion
17 that the Commission reached was that Ameren's overall
18 TRC test results for the entire portfolio of Rider
19 GER programs was 2.35, correct?

20 A. Since I am not an attorney, I think that's
21 one of the semantic choices here I wouldn't want to
22 speak to.

1 Q. Well, I am not asking you about the Order.
2 I am asking you about your testimony. You stated
3 that that was the only conclusion that the Commission
4 reached, and those are your words, so?

5 MS. MUNSCH: To be clear, I am sorry, she
6 stated that the only conclusion the Commission
7 reached was that the Ameren overall TRC test result
8 for the entire portfolio was 2.35. I just wanted to
9 make sure that was clear.

10 MS. ARMSTRONG: I was verifying that her
11 statement at lines 146 to 147 which is, "In that case
12 the only conclusion the Commission reached was that
13 Ameren's overall TRC test results for the entire
14 portfolio of Rider GER programs was 2.35." And based
15 on what you have just read at the end of the 08-0104
16 Order, the Commission did in fact reach other
17 conclusions, correct?

18 A. The portion of my testimony that you are
19 quoting, there is a sentence about it that
20 discusses -- I discuss the Commission discussing the
21 TRC test. So the sentence you read was in relation
22 to the Commission discussing cost effectiveness in

1 that Order.

2 Q. So in that case you are referring to the
3 only conclusion the Commission reached regarding the
4 TRC results for the entire portfolio program was
5 2.35, correct?

6 A. I am sorry, would you restate that
7 question?

8 MS. ARMSTRONG: Can the court reporter read it
9 back, please?

10 (Whereupon the requested portion
11 of the record was read back by
12 the Reporter.)

13 A. I believe so, yes.

14 Q. (Ms. Armstrong) Okay. So when you say "in
15 that case" at line 146, you are referring to the TRC
16 test and the TRC test results, correct, not the
17 overall Docket Number 08-0104?

18 A. Correct, on that sentence regarding cost
19 effectiveness, as I am not a lawyer.

20 Q. Okay. Going back to the prefatory portion
21 of the Order on page 11.

22 MS. MUNSCH: Ms. Armstrong, can I ask a

1 clarification? By prefatory, are you referring to
2 just the generic description? Is that what the word
3 "prefatory" means in this case?

4 MS. ARMSTRONG: I am referring to the generic
5 description that the Commission gave in Finding
6 Paragraph 3, yes.

7 MS. MUNSCH: Thank you.

8 Q. (Ms. Armstrong.) So going back to the
9 prefatory portion of the Final Order in Docket
10 08-0104, on page 11 at the beginning of the second
11 paragraph of that page, the Order states that the
12 Commission agrees with Staff's proposal to monitor
13 projected benefits and costs of the proposed gas
14 griddles and spray valve measures and to only market
15 the efficiency measures if and when projected
16 benefits exceed projected costs, is that correct?

17 A. Yes.

18 Q. Would you agree that, based on the
19 foregoing statement, the Commission reached
20 additional conclusions regarding the projected
21 benefits and costs of the energy efficiency plan
22 measures in Docket Number 08-0104?

1 A. I believe the quote you read discusses
2 costs and benefits which are components of the TRC
3 test.

4 Q. I'm sorry. I don't believe that the
5 witness answered my question so I am going to ask it
6 again.

7 Would you agree, based on that
8 statement from the Order on page 11 which we just
9 read into the record, that the Commission reached
10 additional conclusions regarding the projected
11 benefits and costs of the energy efficiency plan
12 measures in Docket Number 08-0104?

13 A. Yes. Specifically, it looks like regarding
14 the gas griddles and spray valves measures.

15 Q. So the answer to my question is yes, you
16 would agree with that?

17 A. Yes.

18 Q. Thank you. Turning to page 7 of your
19 revised rebuttal testimony, lines 137 and 138, let me
20 know when you are there.

21 A. I am there.

22 Q. Okay. You stated that you agree that

1 utilities need flexibility in implementing a suite of
2 energy efficiency programs for multiple customer
3 classes, correct?

4 A. Yes.

5 Q. Would you agree with me that the
6 flexibility provides the opportunity to offer mixes
7 of measures with long lifetimes, correct?

8 A. Yes.

9 Q. Would you classify a long lifetime to be in
10 the range of 20 years?

11 A. I would consider 20 years a long lifetime,
12 but I would consider other years a long lifetime as
13 well.

14 Q. Would you put it in the range of 15 years?

15 A. When I say a long lifetime here, I am
16 referring to the persistence of a measure, and I
17 consider a measure persistent that has savings beyond
18 one year.

19 Q. So just to clarify, measures that persist
20 beyond one year, is that what you would classify as a
21 long lifetime?

22 A. Well, specifically in the context of this

1 sentence, for the beginning part of that sentence to
2 contrast measures with long lifetimes to programs or
3 measures that only generate savings in the current
4 program year.

5 MS. MUNSCH: To be clear, I think it is the
6 sentence subsequent, right? When you say "that
7 sentence," Ms. Devens, you are referring to 138 to
8 141, right?

9 A. Correct.

10 JUDGE JONES: No, wait a minute.

11 MS. MUNSCH: Because I think -- I was going to
12 say, I just wanted to make sure that I was following
13 as well.

14 JUDGE JONES: I think the witness is under
15 cross right now, so any questions should be directed
16 to her from counsel for Staff. There may be other
17 ways to clarify, but.

18 MS. MUNSCH: I am sorry. I was trying to
19 clarify for Ms. Armstrong. I should not have, Your
20 Honor. I apologize.

21 JUDGE JONES: Not a problem.

22 Q. (Ms. Armstrong) Can you clarify which

1 sentence you were referring to, please?

2 A. Yeah, sure. It is actually the same
3 sentence that you were referring to. It is just a
4 long sentence, and in the revised copy I have it
5 extends from line 138 to 141.

6 Q. Okay. So would you agree with me that a
7 long lifetime is considered more than five years?

8 A. Yeah, more than five years would be
9 considered a long lifetime.

10 Q. Okay. And are you aware of the lifetime
11 for furnace tune-ups?

12 A. I believe it is somewhere between one and
13 three years, but I am not sure if there is a more
14 exact range than that.

15 Q. Okay. I am going to move on to another
16 section of your testimony. On page 12, lines 244
17 through 247, at the end of this section you cited to
18 the Final Orders in Dockets 07-0539 and 10-0568,
19 correct?

20 A. Yes.

21 Q. And I believe we have already confirmed
22 that you are familiar with both of those dockets,

1 correct?

2 A. Yes.

3 Q. So are you generally aware that Docket
4 10-0568 was the proceeding that approved Ameren's
5 electric and gas energy efficiency plan for Program
6 Years 4, 5 and 6?

7 A. Yes, for the electric program, and I
8 believe it was for gas Program Years 1, 2 and 3.

9 Q. Did you know or are you aware that Docket
10 10-0568 was the proceeding in which the Commission
11 directed Ameren to meet with STAG before submitting
12 its modified plans going forward?

13 A. I don't recall that portion of the Order.

14 Q. On lines 276 to 278 of your testimony you
15 stated that you are confident, based on your
16 participation in the STAG, that the utilities already
17 routinely monitor and publicly report the costs and
18 benefits of their energy efficiency programs,
19 correct?

20 A. Yes.

21 Q. Are you aware that Ameren provided routine
22 monthly reports to the STAG regarding its electric

1 energy efficiency programs during the year at issue
2 here?

3 A. Just to clarify, are you asking whether I
4 am aware that Ameren provided monthly reports to the
5 STAG, and could you clarify what year you are
6 referring to?

7 Q. The year that is at reconciliation in this
8 docket.

9 A. So PY2 under Rider GER?

10 Q. Yeah, yeah. Sorry. Under Rider EDR are
11 you aware that Ameren provided the routine monthly
12 report to the STAG regarding its energy efficiency
13 programs during PY2?

14 A. I am not aware that Ameren would provide
15 monthly reports.

16 Q. Are you aware that Ameren provided the
17 required reports to the STAG regarding its electric
18 energy efficiency programs during PY2?

19 A. I am aware that Ameren provided update
20 reports to the STAG in PY2.

21 Q. Related to the energy efficiency programs?

22 A. Yes.

1 Q. Are you aware that Ameren provided no
2 monthly reports or no routine reports to STAG during
3 PY2 regarding its gas energy efficiency program?

4 MR. DE MONTE: Your Honor, can I ask -- I am
5 sorry, this is Mark DeMonte on behalf of the Company.
6 Ms. Armstrong, I didn't catch that question; could
7 you restate it?

8 Q. Yes. Are you aware that Ameren did not
9 provide routine reports to STAG during PY2 regarding
10 its gas programs?

11 A. Could you define what you mean by routine
12 reports?

13 Q. You stated in your testimony that, based
14 upon your participation in the STAG, the utilities
15 already routinely monitor and publicly report the
16 costs and benefits of the energy efficiency programs,
17 correct?

18 A. Yes.

19 Q. Those are the reports that I am talking
20 about, the ones that you refer to in your testimony.
21 So to restate my question again, are you aware that
22 Ameren did not provide routine reports to the STAG

1 during PY2 regarding its gas energy efficiency
2 programs under Rider GER?

3 A. Under Rider GER?

4 Q. Correct.

5 A. As one of several representatives from CUB
6 who attends STAG meetings and was attending STAG
7 meetings in 2009, I am not aware of every report or
8 absence of report that took place during that year.

9 Q. Just one moment, please. So you are not
10 aware of whether or not these reports were filed in
11 PY2, correct?

12 A. I am sorry, but I am unclear on what you
13 mean by "these reports."

14 Q. Well, I am just trying to understand. You
15 said that you have confidence, based upon your
16 participation in the STAG, that utilities routinely
17 monitor and publicly report the costs and benefits of
18 their energy efficiency programs. And I am failing
19 to understand how you can maintain that confidence if
20 you are not aware of the reports being filed with
21 STAG.

22 MS. MUNSCH: Your Honor, I will object to the

1 "I am failing to" portion of the question that
2 reflects an implied assumption. Well, I shouldn't
3 say that. Reflects a judgment of her testimony from
4 Ms. Armstrong. If she has additional questions
5 trying to understand Ms. Devens' response, she is
6 welcome to ask the questions that denote that.

7 Q. (Ms. Armstrong) So you are not aware that
8 Ameren did not provide monthly reports to STAG during
9 PY2 regarding its gas programs; we have already
10 established that, correct?

11 A. Correct.

12 Q. And, nonetheless, you are still confident
13 that the utilities already monitor and publicly
14 report the costs and benefits of their energy
15 efficiency programs, correct?

16 A. Correct.

17 MS. ARMSTRONG: Okay. I have nothing further.

18 MR. DE MONTE: Your Honor, this is Mark on
19 behalf of the Company. If Your Honor would so
20 indulge and CUB's counsel and other counsel, I just
21 had maybe three, maybe four questions that I was
22 going to ask on cross based on some of the testimony

1 that was provided here today at the hearing.

2 MS. MUNSCH: Your Honor, CUB does not object.

3 JUDGE JONES: Do other parties have any
4 objections to that happening?

5 MS. ARMSTRONG: No, Your Honor.

6 MR. DE MONTE: Thank you, Judge.

7 CROSS EXAMINATION

8 BY MR. DE MONTE:

9 Q. Good afternoon, Ms. Devens. I believe you
10 were here when I introduced myself, but my name is
11 Mark DeMonte. I am an attorney for Ameren Illinois.

12 Ms. Devens, you were asked a series of
13 questions by Staff counsel and so I wanted to clarify
14 my understanding of some of your answers.

15 Ms. Devens, you disagree with Staff's recommendation
16 to disallow costs relating to the Small Business HVAC
17 program in this docket, correct?

18 A. Yes.

19 Q. And that disagreement is based on your
20 entire testimony, including that which was discussed
21 today with Staff's counsel, is that correct?

22 A. Yes.

1 Q. Ms. Devens, you are not aware one way or
2 the other as to whether or not Ameren filed reports
3 with the STAG relating to its gas efficiency
4 programs, correct? And I should qualify, in PY2?

5 A. I am aware of Ameren filing programs, but I
6 couldn't tell you if it was -- what particular months
7 or if it was every month at the STAG.

8 Q. And it is your understanding that what
9 Ameren provided to the STAG is posted on a public
10 website for the STAG, correct?

11 A. Yes.

12 Q. So is it fair to say that if Ameren
13 provided information for that, particularly in 2009
14 relating to its gas programs, it could be found on
15 the STAG website, is that correct?

16 A. Yes.

17 Q. And, Ms. Devens, the periodic reports that
18 are filed on the website -- let me rephrase. I will
19 withdraw that question.

20 The materials, Ms. Devens, that are
21 filed on the -- or, I am sorry, that has been
22 presented on the Illinois STAG's public website, does

1 that material comprise the only communications
2 between the utilities and the members of the STAG or
3 are there additional communications that occur beyond
4 the written reports?

5 A. I think it would just depend on whether the
6 STAG facilitator had updated the website with the
7 most recent reports that were circulated to the STAG.
8 It is possible that some might not have been posted
9 yet. But those, I believe, are publicly available
10 and could be accessed by any party.

11 Q. And one last question, I hope, but the
12 utilities also participate in the STAG meeting as
13 well with the other STAG members, and at the meeting
14 things are addressed as well that may not be
15 memorialized in the writings that are in the reports,
16 correct?

17 A. That is correct.

18 MR. DE MONTE: No further questions.

19 JUDGE JONES: We will see if Ms. Munsch has
20 redirect in a minute. But given the sequence here, I
21 think it would only be fair to say if Staff has any
22 further follow-up questions of this witness, that is

1 in follow up of Mr. DeMonte's line of questioning
2 there.

3 MS. ARMSTRONG: I have nothing further.

4 JUDGE JONES: Okay, thank you. Ms. Munsch, do
5 you have any redirect?

6 MS. MUNSCH: If I could have one moment to
7 confer, I think we would be brief.

8 JUDGE JONES: Any objections to that happening?

9 MR. DE MONTE: No objections from the Company,
10 Your Honor.

11 MS. ARMSTRONG: No objections from Staff.

12 (Whereupon the hearing was in a
13 short recess.)

14 JUDGE JONES: Back on the record.

15 Ms. Munsch, did you have any redirect?

16 MS. MUNSCH: I do, just one, although it might
17 take two questions to do it, but one quick topic.

18 REDIRECT EXAMINATION

19 BY MS. MUNSCH:

20 Q. Ms. Devens, counsel for the Office of
21 General Counsel, Ms. Armstrong, asked you a series of
22 questions about what would constitute a long life, a

1 long measure life. Do you recall those questions?

2 A. Yes.

3 Q. And I believe you said that it would be a
4 measure that would be persistent beyond one year. Do
5 you recall saying that?

6 A. Yes.

7 Q. And counsel asked you a couple -- about a
8 couple of specific ranges, for example, 20 years or
9 15 years. Do you recall those questions?

10 A. Yes.

11 Q. Given your testimony there, is it correct
12 to say that for your purposes you are saying a long
13 life is anything beyond one year, up to and
14 including, you know, 2 through 20?

15 A. Yes.

16 MS. MUNSCH: That's all.

17 JUDGE JONES: Thank you. Is there any recross?

18 MS. ARMSTRONG: No, Your Honor.

19 JUDGE JONES: Okay. Thank you.

20 (Witness excused.)

21 Off the record regarding scheduling.

22 (Whereupon there was then had

1 an off-the-record discussion.)

2 JUDGE JONES: Back on the record.

3 There was an off-the-record discussion
4 for the purposes indicated. It pertained to
5 post-hearing scheduling of various types primarily.
6 There is one other pending item regarding CUB Exhibit
7 1.0.

8 MS. MUNSCH: Revised.

9 JUDGE JONES: 1.0 Revised. And that's being
10 offered into the evidentiary record, correct?

11 MS. MUNSCH: Yes, Your Honor. Thank you.

12 JUDGE JONES: Any objections or clarifications
13 with respect to CUB 1.0 Revised filed on March 12?

14 (No response.)

15 Okay. There are not. Let the record
16 show that CUB Exhibit 1.0 Revised is hereby admitted
17 into the evidentiary record as filed on March 12,
18 2013, and that will be File Number 3 on the e-Docket
19 sheet for that filing.

20 (Whereupon CUB Exhibit 1.0
21 Revised was admitted into
22 evidence.)

1 Also discussed among the parties was a
2 briefing schedule, and I believe the parties have
3 come to agreement on what to do about that. Would
4 someone care to read into the record what you believe
5 to be the agreement here?

6 MR. DE MONTE: Thank you, Your Honor. This is
7 Mark DeMonte on behalf of the Company. It is my
8 understanding that the parties have come to an
9 agreement that the Initial Brief will be due on April
10 23, 2013, and the Response Brief would be due May 24,
11 2013.

12 JUDGE JONES: All right. Thank you. Are there
13 any clarifications or objections with respect to that
14 briefing schedule?

15 (No response.)

16 Let the record show there are not.

17 That briefing schedule is hereby implemented.

18 Do the parties have any -- does
19 anybody have any objections to including a table of
20 contents for each of those briefs regardless of the
21 length? Does anybody have a problem with that?

22 MS. MUNSCH: No, Your Honor.

1 JUDGE JONES: So those briefs will include a
2 table of contents for each of them.

3 There was brief discussion regarding
4 the submission of exhibit lists that would include
5 all the exhibits that have been prefiled on e-Docket
6 or were submitted today in the form of a cross
7 exhibit or anything of a late-filed nature, primarily
8 an affidavit. In any event, I think that, as I
9 understand it, Ameren has offered to update its
10 so-called exhibit chart which covers all parties'
11 evidentiary items and file that, and I believe the
12 parties were okay with that. Let me make sure.

13 Is there any objection to the
14 submission by Ameren Illinois of an updated exhibit
15 chart for the above purpose?

16 (No response.)

17 Let the record show there is no
18 objection. So that will be included in the
19 post-hearing scheduling. The time period for filing
20 the updated chart and the affidavit of Mr. Jones will
21 be 14 days from today's date, unless some other time
22 period is better. Is there any -- is a different

1 period suggested by anyone for that?

2 (No response.)

3 All right. So leave is given to
4 submit those items within 14 days.

5 And also briefly discussed was Joint
6 Cross Exhibit Number 1. Now, the one remaining
7 question there was whether that would be filed on
8 e-Docket. I think that was the plan. Is there any
9 objection to that being filed on e-Docket?

10 (No response.)

11 Let the record show there is not.

12 All right. Are there any questions or
13 clarifications regarding any of the above?

14 (No response.)

15 All right. There are not. Okay. Do
16 the parties have anything else to cover today before
17 we conclude this hearing?

18 (No response.)

19 Let the record show there are no other
20 items. At this time then let the record show that
21 today's hearing is concluded. Our thanks to the
22 parties for your participation from both locations.

1 Also our thanks to Ameren for providing a call-in
2 number for previous hearings which were status
3 hearings.

4 At this time then let the record show
5 this record is hereby marked heard and taken, subject
6 to the above-referenced post-hearing filings.

7 HEARD AND TAKEN

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